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Operation procedures of civil defence authorities in time of war

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Abstract. The relevance of this study is determined by the current instability of the global political climate in the world and the outbreak of a number of military conflicts, which necessitates the study of the mechanisms of activity of structures that protect the interests of the population and the state. Thus, the purpose of the paper is to analyse the algorithm for the activities of civil defence authorities, particularly in wartime conditions. Among the methods used are the methods of logical analysis, deduction, synthesis, induction, functional analysis, analogy. This study provides a detailed analysis of the importance and key role played by civil protection agencies in addressing the challenges of protecting, ensuring security and developing society. The importance of their function lies in the effective implementation of strategies aimed at protecting the population and the state in times of threat and danger. The analysis in this paper takes into account the various components necessary for the successful management of various types of warfare. This includes the study of effective strategies for interaction and coordination between civil protection authorities and military command and control. Particular attention is paid to the key factors that determine the effectiveness of the organisation of interaction between military authorities and protection commissioners. Similarly, significant was the analysis of the demand for the resolution of qualitative foresight implementation tasks. Accordingly, an algorithm that will provide a more detailed and relevant examination of the wartime operational algorithm of the governing bodies has been developed. The practical value of the obtained results is that it will increase the appropriate level of combat

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alertness, the guarantor of the protection of the national interests of the state and its population, its territorial integrity and will generally raise the level of effectiveness of the relevant bodies considered

Keywords: mobilisation; servicemen; examination of mechanisms; volatile global climate; public interest

Introduction

The changes that are taking place in the politico-military environments of the world and the Central Asian region are characterised by certain features. These include instability, unpredictability, ambiguity, dynamic level of development, and escalating confrontation between international and regional actors over spheres of influence, where military force constitutes the basis for resolving contradictions. There are quite a number of trends at this stage, namely the desire of other states to change the existing order, the expansion of hotspots of instability and growing tensions in the world and the region.

According to J. Zhaguparov *et al.* (2020), the military security of Kazakhstan, depending on the location of the source of threat or danger, is divided into internal and external. In this case, the former should be understood as the protection of the national interests of society and the state from internal threats, and the latter as a state of security against threats from other countries, organisations and citizens. That is, military security is characterised by the absence of objects of such threats or the ability to counter these threats effectively (Lidiia & Stasiuk, 2023). According to S.B. Kamaletdinov (2022), it is a state and a trend of objective nature on the development of the public, a set of factors and conditions that make it possible to neutralise or exclude the possibility of someone or something being harmed by means of armed violence or military means.

The set of measures aimed at military security is defensive in nature and reflects the commitment of Kazakhstan to use the priority plan to protect its national interests in diplomatic, legal, economic, political, and other non-military capacities. According to A. Nurkanov *et al.* (2021), since the foundation of Kazakhstan as an independent state, the civil defence system has come a long way, shaping and transforming the system into a fairly important part of the defence activities of the state. The need to develop a new form of civil defence, which will feature protective measures not only against dangers during wartime but also in peacetime against man-made and natural disasters, is a necessity in the modern era. Thus, the relevance stems from the importance of examining an effective mechanism for protecting the population under wartime conditions. This will provide an opportunity to identify a framework and set of measures, ways to implement them and to improve their respective effectiveness. The civil defence system is designed to implement a set of nationwide measures that are carried out both in wartime and peacetime to protect the territory and population of Kazakhstan from the influences of different types of hazards.

However, according to A. Shayakhmetov *et al.* (2022), heads of civil defence agencies often face a wide range of difficulties during the exercise of their authority. On this basis, attention should be drawn to the approach taken by A. Zakirov and A. Zhaulybaev (2021). In accordance with which, the most important issues are to bring the organisational structure in line with modern requirements that will ensure a guaranteed level of state and population protection from threats and danger, to develop the system of state material reserves, to rationalise the system of civil defence training, to improve the warning system and the legal and regulatory framework. That is, the civil defence system should be further developed by optimising all necessary aspects and resources, equipping it with new high-performance tools, and increasing its mobility and autonomy of action.

Thus, the main objective of the study is to examine the algorithm for the operation of civil defence authorities during wartime, thus investigating the mechanism for the implementation of this form of protection activity and outlining the future prospects for its development.

Materials and methods

This study was carried out through the use of various types of analysis methods. Thus, the method of functional analysis consisted in identifying fundamentally new ways of realising the function of the object and provided an opportunity to characterise new attributes and elements of modern warfare. The method of logical analysis allowed for the consideration of the essence and role of civil defence and protection authorities through the prism of structural elements and aspects. The method also presented an opportunity to study the algorithm for the formation of combat troops and their characteristics under wartime conditions. The dogmatic method provided for studying the modern legislative framework that regulates issues related to the object of study. In particular, the list of these normative legal acts includes the Constitution of the Republic of Kazakhstan (1995), Law of the Republic of Kazakhstan No. 29-III "On Defence and Armed Forces of the Republic of Kazakhstan" (2005), Law of the Republic of Kazakhstan No. 561-IV "On Military Service and the Status of Military Personnel" (2012), Law "On Mobilisation Training and Mobilisation in the Republic of Kazakhstan" (1997).

The method of analogy was based on the similarity of objects, namely civil defence authorities, similarities in the implementation of the powers granted to them in peacetime and wartime environments. The method of abstraction, in turn, consisted in abstracting the process of learning about the properties of the civil defence authorities with the aim of in-depth study of one particular aspect of it: the operations of the authorised body in wartime. This method was also introduced to study the formation of the military and the wartime mobilisation process in order to monitor the state's combat capabilities from this perspective. The deduction method was introduced to characterise the mechanism of activity of civil defence management bodies based on their characteristics in wartime. In turn, the method of induction, based on the inherent structural elements, principles and features of activity, permitted a full and in-depth study of the operation of agencies in wartime. The synthesis method was based on the features of civil defence

agencies already identified and investigated in the analysis, which made it possible to provide a complete algorithm in wartime, highlighting the key characteristic elements and principles of implementation.

That is, the methods of logical and functional analysis made it possible to explore an aspect that consisted of the study of the role, essence, importance and necessity of state military preparedness, particularly in the face of a sudden enemy attack. The dogmatic method allowed for an examination of Kazakhstan's legislative doctrine to identify its characteristic features and the Civil Defence Plan in case martial law is imposed. Techniques such as analogy and abstraction allowed for a more practical assessment of the individual characteristics of the mechanism and for a review of its key features and principles. Deduction and induction methods have been introduced to trace the relationship between the characteristic elements and the object itself, i.e., the activities of the civil defence administration. The synthesis method, in turn, was introduced to present a complete algorithm for the object of study in wartime scenarios.

Results

Warfare is the most crucial part of armed combat, which constitutes an organised deployment of means and forces with the aim of realising the objectives of combat to defeat the enemy through the combination of all types of troops. Military actions at the level of the operational and tactical plan are commonly called combat operations. They are conducted in the air, on water and on land in the form of strikes, missions, engagements, battles and systematic combat operations. In fact, modern warfare is characterised by certain aspects, namely the participation of large group forces, a high level of dynamism, rapidity and manoeuvrability, the extensive use of all kinds of weapons and equipment, the destruction of targets in large spatial dimensions, abrupt changes in the situation, and the high expenditure of human and material resources (Estancona & Reid, 2022).

The high demands on the management of these types of actions are necessitated by the rapidity of military emergencies, their consequences, the complexity of civil defence tasks and the conditions for their implementation. Accordingly, it is reasonable to conclude that the success and effectiveness of management depend on a high degree of alertness at all levels, which is characterised by continuity, sustainability, flexibility, responsiveness, firmness and stealth. This is possible to realise by establishing a peacetime management system which, without significant restructuring, can ensure the sustainability and reliability of wartime management with full and timely staffing of the command-and-control technical plan, high training of personnel, effective use of automation, sustainability, flexibility, warning and communications system, and the ability to restore it quickly in case of disturbances. In this context, management resilience should be understood as the ability of management bodies to realise their functions and greater pressures at all levels, which may be caused by sudden and complex changes in the environment.

Information is also a necessary component of management. It should have a broad overview of different phenomena, a high level of reliability, timeliness and completeness, compatibility with ad hoc databanks to allow informed decision-making, the ability to be mapped promptly and to be automated in mapping tools. The task-oriented activities of authorities and officials at all levels, which are aimed at civil defence and training, form the basis for managing the measures for the protection of the population. The transition of the system to martial law can be done in two ways. The first is systematic, meaning the implementation of arrangements according to a predetermined level of alert according to the Civil Defence (CD) Plan before the outbreak of war, while the second is sudden attack by the enemy, meaning that the CD plan will be organised according to the existing circumstances, while the Civil Protection (CP) authorities on the basis of the assumed damage and casualties (Order of the Minister of Emergency Situations of the Republic of Kazakhstan No. 258..., 2014).

To bring the State System of Civil Protection (SSCP) to a high state of alert, to enhance it in wartime economic plan facilities and sectors, to bring the system's means and forces to a state of preparedness, a special set of measures is carried out by formation and management bodies to bring the system to the highest levels of operational alert. In this case, this complex includes first, second and third stage of interventions. The first should be understood as those which increase the level of SSCP alertness for peacetime and wartime tasks within 24 hours. The second refers to the group of activities that have the capacity to maximise the level of mission accomplishment and protection of the population during times of war within 24 hours. Finally, the third one contains those measures that are fully operational and guarantee the realisation of all the types of tasks assigned to the CD within 24 hours (Order of the Minister of Emergency Situations of the Republic of Kazakhstan No. 258..., 2014). If there is a sudden attack by the enemy, then the transition of the system from peacetime to wartime will be implemented simultaneously with the organisation and execution of rescue and other contingency plan measures. That is, a single set of activities that includes the defence of the population and territory against enemy re-strikes, the restoration of disrupted control, the re-establishment of the force grouping and the execution of urgent operations. These interventions are characterised by a fairly large number of tasks that need to be completed in the shortest possible time (Milonopoulos, 2021).

Different agencies and ministries, including the command authority, will be involved in the implementation of the objectives, if cooperation is required. Apart from the fact that the response to disasters, catastrophes and accidents must be coordinated in time and place, there are also 2 main reasons for organising the interaction between military commanders and those authorised to carry out protection tasks. The first of these is the close interconnection of wartime and threat period activities that take place at the same time and place, using shared resources. The second factor is the fact that military command authorities are permanently engaged in resolving CD tasks, especially in those districts that have been assigned responsibility for the overall CD state within their borders and for the implementation of practical tasks relating to the mobilisation and preparedness of troops and authorities in the protection of the population (Blazich, 2019). One rather crucial means of cooperation between the two bodies is the mutual

exchange of baseline data, which is necessary for the adjustment of action plans.

This interaction should be organised according to a list of objectives. These include organising the management of CD formations that have been assigned to implement the missions of the military command and enforcing them; organising the exchange of information on signals received and situation data; organising the use of troops; organising the protection of military personnel at their assembly points; sharing responsibility for peacetime and wartime surveillance; harmonising the use of road plan communications; organising joint work at command posts and interfacing the warning and communications system (Tomović, 2023). However, the most problematic position in organising cooperation is in the face of a sudden attack by the enemy, as the deployment of formations would then be disrupted in the cities that have been attacked, while in others it would not begin until the outbreak of hostilities. In such an environment, commanders are required to make ground-breaking decisions to deploy forces and create the necessary grouping to carry out rescue work. Based on experience, the most difficult areas for work are forecasting the scenario, collecting and processing the resulting baseline data, and developing alternative solutions and the rationale behind them accordingly.

The Emergency Situations (ES) data being circulated will include some baseline military intelligence. This category includes targets of possible missile and air strikes, the most likely sabotage and reconnaissance efforts, composition and equipment of various formations, military units and formations that may be involved in ES liquidation, area dislocations, coordinates, order of all-round support, and so on (Cancian *et al.*, 2020). That is, the operation process for achieving the primary objective is to organise the response force of the rescue plan as effectively as possible under wartime conditions is presented in the form of a precise algorithm. Public administration authorities shall, in accordance with the established procedure, implement the collection and exchange of information in the field of protection of population and territory from ES, provide an opportunity to ensure timely information and notification of the authorised control body CP and population about the perceived threat or occurrence of ES. The continuous monitoring and forecasting services shall provide information on the condition of the area under their responsibility in accordance with the procedure. Based on this, data of various kinds is received by the duty officer of the authorised body, which systematises, describes, processes and assesses the present situation. The assessment, including information from territorial threat directories and safety data sheets, provides a forecast for the projection horizon and the possibility of ES occurring.

The data received is then processed and forwarded to the management of the designated authority prior to being placed on high alert. When necessary, a withdrawal to a designated area and the deployment of a Mobile Emergency Situations Command Post (MES) is carried out. The latter is deployed according to combat charts, and interaction with the radio-frequency units of the Ministry of Defence is organised (Order of the Minister of Emergency Situations of the Republic of Kazakhstan No. 258, 2014). This makes it possible to carry out a range of specialised CD tasks. One of the requirements placed on the system is to improve the quality of management decision-making through the accuracy of the forecasting of developments in the theatre (Takeda *et al.,* 2023). Thus, the essence of the tasks of forecasting military ES comes down to the establishment of a logical relationship of various characteristics, dependencies of an analytical and graphic nature, which allow, on the basis of the forecasted damage to economic objects or settlements, to assess the nature and extent of damage, as well as to account for losses of population and service personnel in the event of various degrees of destruction due to factors of primary and secondary type (Darcy, 2019). This is the initial information required for the projection of the volume of emergency response efforts, i.e. the means, forces and actors involved in the implementation of these operations. The solution of the task consists of 2 stages. The first is a prediction of an enemy's potential to engage targets with advanced weaponry. The second is the prediction of the magnitude of consequences, considering primary and secondary factors, production and material resources due to the specificity, inputs and outputs at each stage, according to which own approaches and methods will be applied to obtain the results of interest (Carey & Gonzalez, 2021).

The essential point in resolving qualitative forecasting tasks is to develop new techniques for further forecasting based on available data, to produce specific numerical plan values, to provide estimates of the possible magnitude of the impact of primary and secondary factors that cause destruction and casualties among the population, taking into account the particular characteristics of the means of destruction. The rapid pace of events in wartime brings the need for effective personnel practices. This is possible when tasks are assigned and the functional responsibilities of each actor are properly defined on the basis of the principle of narrow specialisation. It creates the conditions for higher levels of productivity and quality of work. For this purpose, it is important to divide the entire workload into a number of tasks. For example, data collection, processing, display, calculations, preparation of proposals, execution of solutions, communicating tasks to performers, monitoring implementation, and so on. The Crisis Management Center (CMC) is a specially equipped command and control centre that serves as the main management element for the entire system when the CD is converted from peacetime to wartime. That is, this is where basic situational awareness is examined and summarised, and decisions are made accordingly. Based on this, the algorithm for the operation of authorities in wartime is presented as follows (Fig. 1).

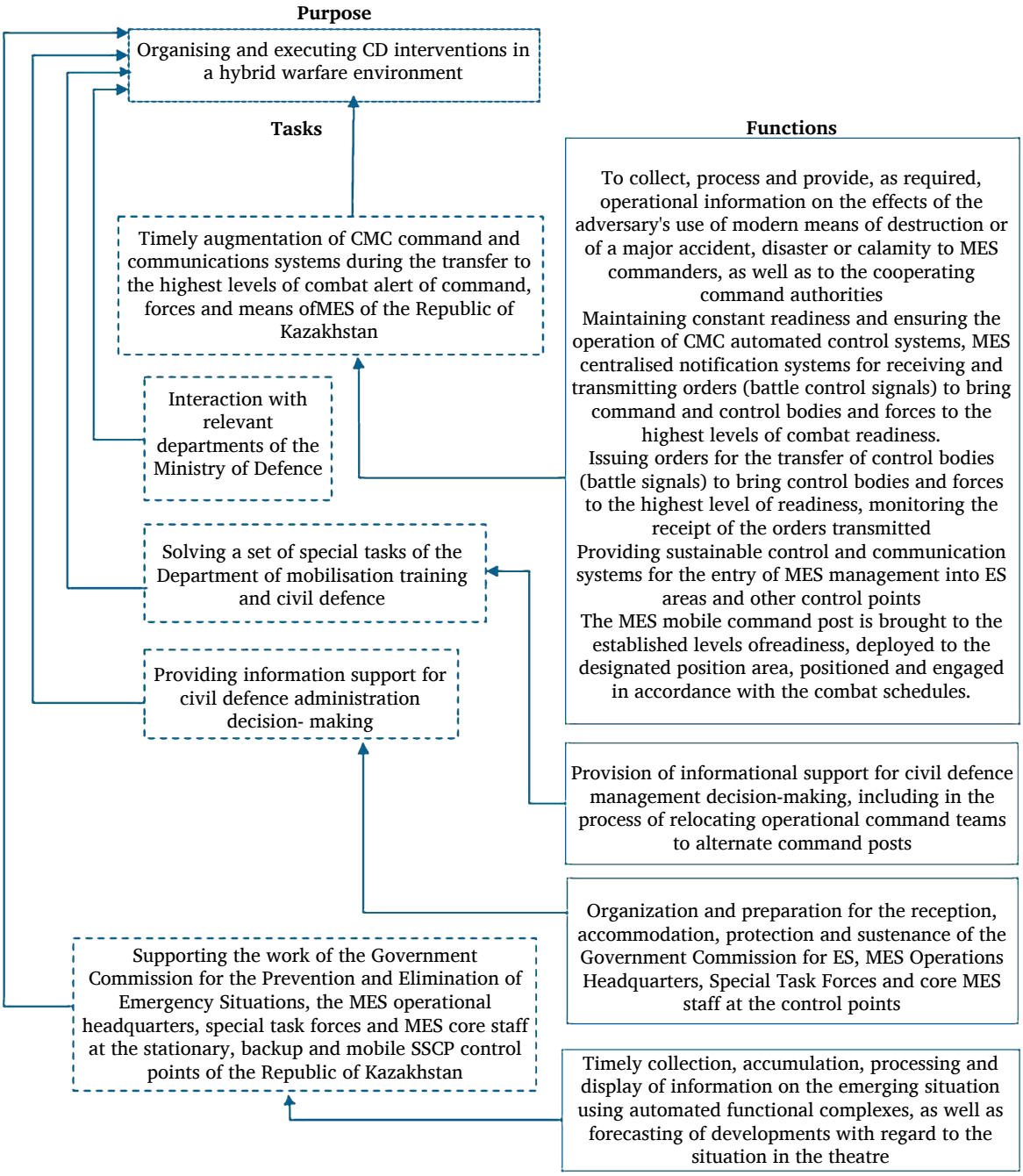

Figure 1. Algorithm of operations of the governing bodies in wartime
Source: compiled by the authors based on (V. Dos Santos *et al.* (2020))

Thus, this algorithm provides an opportunity to visualise the main tasks assigned to the authorities and to understand how they can be allocated in the most efficient way for successful implementation in wartime. It lays the foundation for effective crisis management by optimising resource allocation, improving communication and enhancing performance. Subsequent research will explore aspects of effective management in general, and allow these crisis management techniques to be refined and adapted for an ever-changing world.

Discussion

At this stage, the nature of military threats to Kazakhstan suggests that simultaneous enemy action against targets in virtually all regions of the state is possible in modern operations. According to L. McEnaney (2000), along with strikes on military objects and troops by all types of weapons to disrupt state and military-type control systems, reduce the country's military-economic potential, the possible use of illegal armed formations and sabotage and terrorist groups of the enemy is also foreseen. Following this argument, the author concludes that it is of particular importance to study the algorithm for the work of civil defence administrations in wartime.

Along with the training of the Armed Forces to repel an attack by the enemy and the possible consequences, there is a need to adopt measures and a set of procedures that will contribute to the sustainable effective functioning of state, military and economic installations, preserve material and human resources and protect the various facilities and communications that constitute the territorial defence of the country. According to V. Dos Santos *et al.* (2020), the experience of military conflicts shows that insufficient attention is paid to such issues as the organisation and conduct of territorial defence, in particular in the initial stage of the conflict, the lack of special military units and units that facilitate the resolution of various tasks. These factors are particularly influential; they allow the adversary, from the outset of a military conflict, to deploy numerous subversive groups and agents to pursue its objectives. As a consequence, this leads to significant casualties, disruption of communications, logistics, businesses and disruption of troop control (Hubeladze, 2023).

The basic requirements for the structure of territorial unit military plan formations are a matter of particular interest. H. Huseini Amini *et al.* (2019) describe these as a high level of autonomy of action and command of the formation, ensuring the necessary level of combat capabilities that must match the territorial defence tasks to be performed, realising a rational distribution of combat capabilities according to the tasks at hand and the level of potential or perceived threat, and highly effective use of weapons and equipment. According to this position A. Sakovskyi and Y. Bilozorov (2022), the model organisational structures of territorial defence forces can be modified according to local context and specific tasks. It is important to highlight the legal doctrine that regulates the manning of military units and authorised territorial defence administrative bodies with personnel. These are the Constitution of the Republic of Kazakhstan (1995), the Law of the Republic of Kazakhstan No. 29-III (2005), the Law of the Republic of Kazakhstan No. 561-IV (2012), the Law Law of the Republic of Kazakhstan No. 127-I "On Mobilisation Training and Mobilisation in the Republic of Kazakhstan" (1997).

Based on the analysis of the legislation provided, it should be mentioned that the troops are manned by the wartime local government bodies according to the principle of territoriality under the leadership of the akims of cities of republican significance and oblasts. In general, territorial defence troops have distinctive characteristics. These include residual manning, flexibility, mass and simple organisational structures, short combat recovery times in any situation using local resources, the territorial-area principle of application, stationary operation, light equipment and multi-functional application in terms of warfare (Biloshytskyi, 2023). T. Thomas (2020) notes that the recruitment of territorial troops takes place mainly by conscripts of established categories. It should, however, be mentioned that it is permitted for persons liable for military service of a certain class, who have served in other formations and troops and who have special training.

This staffing process is carried out according to direct staffing and military occupational specialities. In doing so, NCOs, soldiers and reserve officers are assigned, as a rule, to posts for which they have previously completed military service or training, or to posts which correspond to their civilian occupation (Koropatnik *et al.*, 2020). If shortages occur in reserve manning areas, they may be replaced by other specialists in accordance with the list of permissible replacements. These must be authorised by the Chief of Staff and be consistent with the mobilisation purpose. To realise the guaranteed delivery of mobilisation plan resources in the territorial troops, a reserve is established from free resources in the district defence departments, which must include at least half the manpower assigned to each command; primarily in the most demanding, which determines the combat readiness of the military positions. The most comprehensive pool of military duty personnel is created for the organisational core.

According to M.d.G. Bonelli *et al.* (2022), in order to organise a quality, timely and efficient reception of conscripts who are called up for mobilisation, their distribution by equipment and units should be determined by the administration and the deployment of reception facilities by the heads of the local authorised bodies. Accordingly, their location will be determined on the basis of the availability of water sources, road conditions, heating in winter, epidemiological conditions, camouflage and sheltering of personnel, and security conditions. Elements of the reception centres are located on the premises of institutions, organisations, enterprises, and public facilities in settlements. In other words, these are places that are intended for the future deployment of territorial troops.

The administration of the reception centre, which is appointed by a decision of the akim, may include staff from those institutions and organisations where the reception centre is deployed (Law of the Republic of Kazakhstan No. 561-IV, 2012). Officers from the defence directorate may also be deployed if necessary. The head of the local authority appoints the head of reception personally. Training is organised by the head of the local executive authority and takes place in peacetime through drills and exercises. According to O. Zemliansky *et al.* (2022), the recruitment centre has the following characteristic elements: turnout section, command reception, deployment section, and outfit section. This should be recognised, and it is also worth mentioning that once the unit staffing process is completed, the staffing lists are forwarded on to the military unit headquarters for the preparation of an order assigning the mobilised personnel to military positions. Those enlisted from the reserve and assigned to the organisational formation nucleus are admitted on arrival, equipped and further allocated according to the proper facility to carry out the priority work that is undertaken during the formation of the military unit. In turn, the paperwork is carried out at the headquarters of the military unit.

Thus, the set of measures that consists in the formation of a combat unit, particularly a territorial one, with its inherent elements and features, is carried out very well in

advance and effectively before various crisis situations arise and develop, including under wartime conditions and sudden attack by the enemy. The quality and success of these comprehensive combat plan formation exercises will determine the timely and efficient recruitment of military units and territorial subdivisions. This, in turn, affects the performance of assigned tasks for territorial defence and other military units and provides the ability to be on alert in the event of a surprise attack by the enemy and the conversion of the state regime to a military one.

Conclusions

The study was carried out to investigate the algorithm for the operation of civil defence administrations in wartime. First, a description of contemporary warfare was provided to understand the necessary requirements and criteria. These include dynamism, agility, rapidity, destructiveness, widespread use of various weapons and other aspects. This has revealed that there is currently a necessity to develop a better mechanism to ensure civil defence, national interests of the state and its territorial integrity. It has been stressed that the translation of the system to martial law is realised in two methods. The first is the pre-attack measures in accordance with the CD Plan, while the second is the implementation of the Plan's measures in response to the attack.

Other characteristics that influence the formation of a qualitative mechanism were also highlighted. In turn, based on the information received, an algorithm was provided for the operation of the authorities with all the specific features of wartime. It provides an insight into the main tasks of the authorising bodies and their respective effective and qualitative distribution. The formation of the military base and the mobilisation process were also examined to provide a more in-depth analysis.

Accordingly, legislation has been studied, namely the Constitution of the Republic of Kazakhstan, the Law "On Defence and Armed Forces of the Republic of Kazakhstan", and the Law "On Military Service and the Status of Military Personnel", the Law "On Mobilisation Training and Mobilisation in the Republic of Kazakhstan". On this basis, it was found that a modern set of measures was implemented in a timely, high-quality and effective manner, which allowed to note the combat readiness of Kazakhstan in the event of a sudden attack by the enemy. These indicators affect the efficiency with which the authorities resolve their tasks. Subsequent studies will aim to investigate additional aspects to improve the performance of the bodies in question.

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Conflict of interest

None.

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Порядок роботи органів цивільного захисту під час війни

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Анотація. Актуальність цього дослідження визначається поточною нестабільністю глобального політичного клімату в світі та початком ряду військових конфліктів, що зумовлює необхідність вивчення механізмів діяльності структур, які захищають інтереси населення та держави. Таким чином, метою статті є аналіз алгоритму діяльності органів цивільного захисту, зокрема в умовах воєнного часу. Серед використаних методів – методи логічного аналізу, дедукції, синтезу, індукції, функціонального аналізу, аналогії. У рамках цього дослідження проведено детальний аналіз значення та ключової ролі, яку відіграють органи цивільного захисту, у вирішенні завдань захисту, забезпечення безпеки та розвитку суспільства. Важливість їхньої функції полягає в ефективному впровадженні стратегій, спрямованих на захист населення та держави в умовах загрози та небезпеки. Аналіз у роботі враховує різні компоненти, необхідні для успішного управління різними видами бойових дій. Це охоплює вивчення ефективних стратегій взаємодії та координації між органами цивільного захисту та військовим управлінням. Особлива увага приділяється розгляду ключових факторів, які визначають ефективність організації взаємодії між органами військового управління та уповноваженими з питань захисту. Підсумковий аналіз не лише розкриває важливість органів цивільного захисту, але й розвиває стратегічний погляд на їх роль у забезпеченні стійкості та безпеки суспільства. Було підкреслено, що найбільші труднощі в організації оперативної сумісності виникають в умовах раптового нападу противника. Так само важливим був аналіз попиту на вирішення завдань якісного впровадження форсайту. Відповідно, розроблено алгоритм, який дозволить більш детально та релевантно дослідити алгоритм роботи органів управління у воєнний час. Практичне значення одержаних результатів полягає в тому, що це сприятиме підвищенню належного рівня бойової готовності, гаранту захисту національних інтересів держави та її населення, її територіальної цілісності та в цілому підвищить рівень ефективності діяльності відповідних органів, що розглядаються

Ключові слова: мобілізація; військовослужбовці; вивчення механізмів; нестабільний глобальний клімат; суспільний інтерес

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The crimes of Serbian Forces in the Municipality of Gjakova (1998-1999)

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Abstract. The city of Gjakova, which at the time of the events of 1998-1999 was located on the territory of the Autonomous Province of Kosovo (actually the Republic of Kosovo), became the scene of violent clashes during the break-up of the former Yugoslavia. Therefore, the relevance of the article lies in the need to analyse the crimes committed by Serbian military groups in the area of Gjakova from 1998 to 1999. The aim of the study is to reveal the nature, scale, and consequences of these crimes and to establish the connection between the events in Gjakova and the overall course of the conflict in the former Yugoslavia. To achieve this goal, the following methods were used: analytical, comparative, case study, synthetic, induction and deduction, abstraction and generalization. In particular, through the analysis of archival documents, eyewitness accounts, international reports and other sources, the motives, tactics, and strategy of military groups in committing crimes were revealed. Thus, the role of these crimes is clarified in the context of a balanced understanding of the Yugoslav wars and their impact on subsequent events and processes in regional stability and law and order. Various aspects of the crimes are analysed in detail, including massacres, ethnic cleansing, violence and human rights abuses. Particular attention is paid to the role of the Serbian military in these events, its organizational structure and interaction with other groups. The study also examines the international response to these crimes, including the actions of international organizations and attempts to bring perpetrators to justice under international law. In addition, the role of these events as part of the historical context and their impact on the further development of the region was examined. The practical significance of the article is to find new facts confirming the crimes committed and which can be used in court proceedings

Keywords: war in the Balkans; human rights violations; ethnic conflicts; mass murders; ethnic cleansing

Introduction

The analysis of crimes committed by Serbian military groups in Gjakova between 1998-1999 remains an important research area due to the immense human suffering these events caused and their role in shaping the course of the Kosovo conflict. Thousands of innocent civilians lost their lives or livelihoods, and the trauma from violence and ethnic tensions continues to impact communities today. Understanding the motives, methods and consequences of the crimes in Gjakova can provide meaningful insights into the dynamics of the wider Balkan conflicts. Uncovering the truth through further investigation can support reconciliation efforts and help prevent history from repeating in this region. Analysing international responses and accountability for such war crimes carries valuable lessons for improving global legal and political systems.

The people of Kosovo have been victims of systematic human rights violations throughout their history, culminating in ethnic cleansing in the late twentieth century (Hoti, 2020). This conflict, known as the Kosovo War, had serious geopolitical, cultural and legal consequences. During 1998-99, around 13,500 people died in the region. These figures have been provided by various institutions in Kosovo, including the Humanitarian Rights Foundation (FDH), and are presented in the Kosovo Book of Remembrance (LKK), which lists all victims of the Kosovo War from all ethnic groups (The first indictments…, 2023). Although the International Criminal Tribunal for the former Yugoslavia has worked to resolve some cases and hand down verdicts, not all cases have been completed and not all perpetrators have been brought to justice (Aliu, 2020).

According to S. Gashi (2018), in 1981, Kosovo witnessed numerous demonstrations, first among students and then among the general population. The first of them took place in the capital of Kosovo, Pristina, and then spread to all other cities in the region. The creation of the Republic of Kosovo dominated among the numerous slogans. These demonstrations were the first in Yugoslavia since the events of 1968. Continuous injustice, oppression of the Albanian people, economic pressure and social exclusion were the main reasons for their occurrence. In general, S. Gashi (2018) considers

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in his work the historical context, various aspects of social, political and cultural interrelations, as well as the role of international factors and the consequences for modern society. At the same time, the work lacks a detailed analysis of the role of specific social groups in the protests.

Researcher A. Sopaj (2020) calls the demonstrations a key part of the history of the region and Yugoslavia as a whole. According to him, these events were a reaction to a nationwide movement and the desire of the Albanian population of Kosovo to preserve their cultural and national identity, as well as to gain greater autonomy and rights. The demonstrations began among students in Pristina in mid-March and quickly spread to other cities and villages in Kosovo. The main slogan was the demand for the establishment of the Republic of Kosovo, reflecting the desire for political autonomy and independence from Yugoslavia (Hunko, 2023). Young people were key actors, expressing their determination and desire for change. The article also notes that young people acted as an important catalyst, defining their role in expressing national outrage and seeking political and social change. The aftermath of the demonstrations included political repression and attempts to quell discontent, but they also defined the Albanian people's spiritual and national connection to Kosovo and their unquenchable desire for freedom and independence.

The conflict in the Balkans in the 1990s, particularly in Kosovo, involved many grave violations of international law and human rights, even by the Allies, as K. Ristić and E. Satjukow (2022) affirmed. Crimes attributed to Serbian military organizations in Gjakova in 1998-1999 have been the subject of investigations and trials. The conflict in Kosovo involved numerous military operations, repression, and violence against the civilian population. The Court of the International Criminal Tribunal for the former Yugoslavia (ICTY) tried cases related to crimes against humanity, war crimes and other serious violations of international humanitarian law (Spytska, 2023). The specific crimes that were considered in these cases included massacres, ethnic cleansing, torture, sexual violence and other forms of systematic oppression of the civilian population. In particular, the events in Gjakova were part of a wider pattern of actions in violation of international law. The trials of military leaders and other responsible individuals, such as Slobodan Milošević, demonstrate the importance of justice and accountability for crimes committed.

Slobodan Milošević (1941-2006) was a Serbian politician and leader who influenced many events in the former Yugoslavia, including Kosovo in 1998-1999. He was one of the key players in the events that led to the breakup of Yugoslavia. In 1999, a humanitarian crisis arose in Kosovo, marked by massive human rights violations. The conflict was resolved by joint efforts of the international community, and Milosevic was in opposition to international organizations. In 2001, Milosevic was handed over to the International Criminal Tribunal for the former Yugoslavia, where he was charged with crimes against humanity and war crimes. The trial lasted several years. However, in March 2006, before receiving the final verdict, Slobodan Milosevic died in prison in the Hague (Lika, 2023).

However, throughout the history of the conflicts in the Balkans and the break-up of the former Yugoslavia, many crimes have remained unsolved and perpetrators have not been held accountable for their actions (Kopotun & Murzo, 2023). International court processes have faced various difficulties, such as challenges in gathering evidence, political interference and unfavourable conditions for witnesses. This often makes it difficult for those responsible for crimes to be sentenced fairly and fully. It is important that international and national organizations continue working to ensure justice and accountability for perpetrators of crimes against humanity and war crimes. However, this process can be time-consuming, and in many cases, it is still ongoing.

Therefore, the purpose of this study is to analyse the Kosovo conflict and its consequences, including genocide, and its impact on the current civilian population, taking into account newly collected evidence.

Materials and methods

This study used a set of methods that allowed for a comprehensive study of the crimes committed by Serbian military organizations in the city of Gjakova (1998-1999): analytical, comparative, case study, synthetic, induction and deduction, abstraction and generalization.

In particular, to understand the context of the events and further investigate the crimes, literary accounts and recorded eyewitness testimonies were analysed. In addition, to obtain specific data on the crimes and accused persons, the sources from the State Archives Agency of Kosovo related to the events under study were analysed. Geospatial data and maps were used to identify the locations of the conflict and to reconstruct the events. Photographs and videos taken during the events were analysed to document the crimes and identify the accused. Medical records containing information on injuries and deaths that occurred during the conflict were also analysed. For the same purpose, court decisions on charges were studied, as well as information on the legal assessment of the events under investigation. After analysing the above aspects, a comparative method was used to compare the events in Gjakova with similar events in other regions.

Five people were interviewed: Bute Komani (a teacher in the village of Guske, about 58 years old, interviewed on 14.12.2022 in Gjakova), Lulzim Sefa (a resident of the village, about 58 years old, interviewed on 14.12.2022 in Deve, Gjakova), Mal Haziraj (teacher and artist, around 67 years old, interviewed on 14.12.2022 in Skivjan), Setki Krasniqi (school principal in the Shehu district of Damjan, around 46 years old, interviewed on 14.12.2022 in the Shehu-Damjan neighbourhood) and Shkendije Hoda, "War Crimes Association Gjakova 98-99". Interview given to the author on May 30, 2022 in Gjakova. Their stories about the events in Gjakova, including information about victims and the military, important findings and additional information for the study are analysed. In addition, the case study method was used to analyse in detail the existing sociological surveys and questionnaires. Studying the opinions and views of citizens helped to determine the impact of events on society and to include public opinion in the research. It should be noted that the possibility of errors or inaccuracies in the testimonies was taken into account, and the data was thoroughly checked for accuracy. This allowed getting a completer and more objective picture of what happened during the events in Gjakova.

Among other methods, the synthetic method was useful for comparing different approaches to understanding the Kosovo conflict and combining data from different sources. The method of induction was used to draw conclusions about specific facts and events related to the Kosovo conflict, while the method of deduction was used to formulate a

general understanding of international relations in the context of conflict analysis. The method of abstraction allowed identifying objective factors that influenced the Kosovo conflict and its consequences. Finally, the method of synthesis helped to present the results of the study, as well as trends in the impact of the Kosovo conflict on international relations.

Results

In the context of the Kosovo conflict, the city of Gjakova served as a vivid example of media influence and its consequences for the international community. Thus, during the conflict in Kosovo, which lasted from 1998 to 1999, numerous human rights violations and crimes against civilians, ethnic cleansing, violence, destruction of property and other war crimes were committed.

Most scholars agree that war crimes are violations of international humanitarian law committed during hostilities, including any hostile acts committed against civilians, prisoners of war, the wounded and sick, and objects protected by international humanitarian law, with intent to cause disproportionate harm to such objects, murder, torture, violence, destruction of property, pillage, forced displacement, use of nuclear weapons, prohibition of humanitarian aid, etc.

Crimes against humanity are systematic acts of violence and terror against civilians. According to the Statute of the International Military Tribunal for the Trial and Punishment, crimes against humanity include: murder, violence, forced displacement, forced deprivation of liberty, torture, rape, violence against children, genocide, slavery and other forms of violence committed by security forces (Human Rights Watch, 1993).

The city of Gjakova, located in the south-west of Kosovo, was one of the hotspots of the conflict. The federal centre's policy towards the Serbian autonomies in the Socialist Federal Republic of Yugoslavia was led by J.B. Tito and aimed at maintaining a balance between the peoples of the federation. However, given the constant interethnic flare-ups in multi-ethnic Kosovo, the autonomous rights of Kosovo Albanians became a subject of debate in Serbian society. According to the 1990 Serbian Constitution, they were significantly limited, so in the 1990s, a struggle broke out between the political leaders of the Albanian minority and the Serbian leadership over the status of Kosovo. In 1998-1999, the conflict escalated into a complex crisis, which the international community was involved in resolving (Bilyi, 2022). It is especially important to study the crimes that took place in the city of Gjakova, as this period was crucial for the region and had serious geopolitical and humanitarian consequences.

In the "Dictionary of Modern Albanian Language", the word "crimes" means destruction and other inhumane acts committed by anti-people regimes, occupation armies, etc. A crime is an act committed in violation of the current legislation, which has caused harmful and dangerous consequences for the state, society or any of its members and is punishable in accordance with the criminal code (Kostallari, 1984).

Serbia committed about 400 massacres of civilians in Kosovo during 1998-1999. During the most recent war in Kosovo (1998-1999), around 13,500 people died. These figures are provided by various institutions in Kosovo, including the Humanitarian Rights Foundation (FDH), and are presented in the Kosovo Book of Remembrance (LKK), which lists all victims of the war in Kosovo from all ethnic groups. According to this organization, a total of 13,535 people were killed or disappeared during the war in Kosovo.

Based on empirical data collected during a comprehensive research study and information provided by the Gjakova Municipal Assembly, it was found that between 1 January 1988 and 12 June 1999, 930 residents (832 men and 98 women) were killed in the municipality, an additional 92 people (82 men and 10 women) were reported missing, and 220 deaths were recorded (Ball, 2011). The majority of ethnic Albanians have been subjected to systematic repression by Serbian law enforcement and military forces. During NATO's first operations in the region, Serbian military and police forces launched massive acts of violence in Gjakova, including the burning of the area and the killing of civilians. Modern-day Gjakova has undergone significant destructive changes, becoming a symbol of sacrifice and loss (Osmani, 2012). A total of six cases of rape by Serb forces were documented during 1998, although evidence collected by Human Rights Watch, doctors and local human rights groups suggests that the actual number was much higher. Official state propaganda in Yugoslavia in the decade leading up to the war served to dehumanize and stereotype Kosovo Albanians. Serbian propaganda contrasted Serbian women, who were seen as "cultured, strong and worthy of motherhood", with Albanian women, who were portrayed as "indiscriminately fertile" (Mertus, 1999). In the late 1980s, there was a huge amount of propaganda against Albanian women, portraying them as stupid, uneducated women "with open legs, ready for sex".

In this context, attention should be drawn to the tragic incident that occurred due to the actions of Serbian military units in the house of Mehdi Vejsa and the Hagjija family in Gjakova on the night of 1 and 2 April 1999. According to documented data, there were 21 people inside the house: one elderly man, 7 women aged 30-73, and 13 children aged 2-15 (Beka, 2020; Beqiri, 2021). They were killed by automatic fire and subsequently set on fire. 9-year-old Dren Ali Chaka, who was wounded, managed to escape. In particular, 6 members of the Hagjija family were killed. The family of Januz Kana, which included him, his wife, daughter and son, also fell victim to the aggression and was subjected to violence before their house was burnt down. Other victims, such as Aferdita Deda-Demjaha and her son Ylber, were subjected to brutal violence that ended in their deaths (Fig. 1).

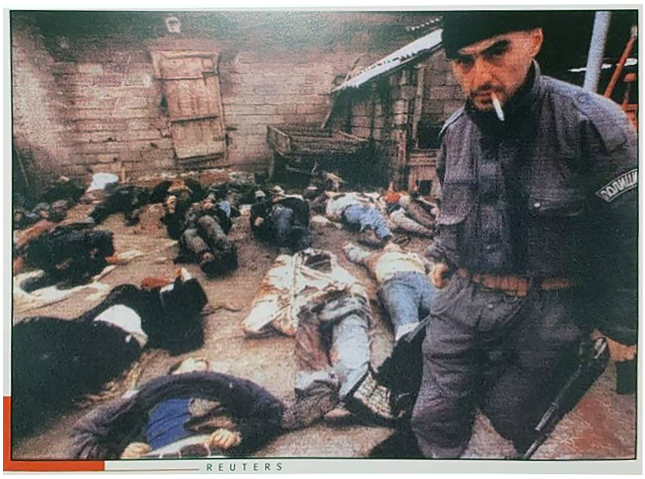

Figure 1. From the massacre of Rogovo of Hasi-Gjakova
Source: A. Beqiri (2021)

In Goden, on 25 March 1999, 20 Albanians aged 18 to 45 were killed, and their corpses were burned (Ramosaj, 2005). On 25 March 1999, 21 people were killed in the Qyl neighbourhood of Gjakova. On 26 March 1999, 6 members of the religious community were killed in the Gec neighbourhood. On 27 March 1999, 8 people were killed in the Novi Quarter. In the village of Deve, on 27 March 1999, 10 people were killed and executed with 222 bullets. On 31 March 1999, 6 people were killed in Bllokun e ri. On 1 April 1999, 27 people were taken hostage and executed near the tile factory in Gjakova. On 2-4 April 1999, a massacre took place in the village of Kralan, during which 87 young people were executed and many of the corpses were burned. These Albanians were from the municipalities of: Klinë, Malishevë and Gjakova. On Qabrati Street, 300 men were separated and captured, 145 of them were taken hostage. In this case, 143 people were sentenced to 1632 years in prison.119 people were killed on Qabrati Street on 7, 8, 9, 10, 11 and 12 April (American newspaper: A report…, 2020).

In the villages of Deçan and Peja, on 6 April 1999, there was a massacre and burning of 7 corpses in the house of Rustem Tahir in the villages of Bardhaniq, Dushkajë and Gjakova. During the offensive by Serbian military and police forces that took place on those days, the lives of the wounded and sick in the KLA military hospital in Zhebel were also threatened. As a result, several patients from the hospital in Žabela were evacuated to the village of Bardhaniq. Many sick civilians fell into the hands of Serbian troops. They were killed, and their bodies burned in the Barja-e-Madhe area, now the Hajdaraj district, in particular in the house of Bardhaniqas Rustem Tahir Hajdaraj, a resident of the village of Bardhaniq.

On 12 April 1999, in the village of Lugishte of Hasi, at a place called "Del Ujë", 16 residents of Hasi were killed, including 13 residents of Lugishte and 3 residents from Demjani. Avdullah Shaban Krasniqi and brothers Shyqeri and Qazim Sejde Krasniqi were from the Shehu neighbourhood in Demjan. They were all separated from their women and children before being killed nearby. On 18 April 1999, 7 members of a family were killed in the town of Deve (Gjakova): Bobi, Rustemi (1926), Aliu (1944), son of Ali, Nexhdeti (1969), Halili (1952), Nura (1952), Ismeti (1978). Kenan Avdija (1981) and Hajdar Aslani (1970) (The list of names…, 2020). All of these men were expelled from their homes and killed in the vicinity of Ura in the village of Duzhnje. Xhevdet Bobi (1967), detained in Mejë on 27 April 1999, was executed by Serb-Slavic forces (Fig. 2).

Figure 2. Seven members of Bobi's family from Deve of Gjakova and two brothers of Bobi from Deve of Gjakova, killed by Serbian police and paramilitary forces

Source: The list of names… (2020)

On 27 April 1999, 25 Albanians were killed in Guskë in Gjakova. The residents of Guske had been forcibly expelled from their homes about a month earlier. 21 people were shot dead by Serb paramilitaries and police in the village of Korenica. 4 men from Guska, Nikollë Komoni, brothers Pashk, Fran Komani and Anton Lleshi, who were staying in Meje, were executed.

During a meeting of the leadership of the military and police structures in Gjakova, which included Momir Stojanović, the head of the security sector of the Pristina Corps, it was decided that at least 100 people should be killed and houses burned in the villages of Meje and Korenica in response to the murder of Inspector Prashqević and three police officers. Operation Reka was led by the Pristina Corps, with the participation of several military units, the NJSP, SPB police officers in Gjakova, the Red Berets, and other paramilitary units. The main slogan of the operation was "No corpses – no crime!", and the tactic of silence, "A closed mouth does not speak" was also used. The 549th motorcycle brigade of the Ukrainian Armed Forces and the 73rd unit of the National Guard of Ukraine also took part in the attacks on the residents of Korenytsia (Pllana, 2015).

General Vladimir Lazarević, commander of the Pristina Corps, systematically informed his immediate superior, General Nebojsha Pavković, commander of the Third Army, about the events during Operation Reka. Pavković, in turn, appealed to General Dragoljub Ojdanić, the Chief of the General Staff. Ojdanić coordinated actions based on instructions from the supreme commander, who also received information about the situation. Summing up the information, they concluded that the operation had killed more than 350 people identified as "terrorists", displaced more than 4,000 local residents and deported them to Albania. Most of the buildings in the villages of the operational zone were burned down.

According to the Association "War Crimes of Gjakova 98-99", 8 schools were completely destroyed, 10 schools were

damaged, and 28 schools were destroyed. In the Old Bazaar in Gjakova, 341 two-storey buildings were destroyed, 55 two-storey houses, 13 two-storey houses with residential buildings on the ground floor, 14 half-burnt two-storey houses, 25 two-storey houses and commercial premises were burned. burned in other parts of the city. 12 objects under the protection of the Department of Monument Protection were burned, 1 was shelled, 1 was destroyed, and 6 objects were damaged (Fig. 3).

Figure 3. On April 27, 1999, 25 Albanians were killed in Guskë in Gjakova
Source: N. Pllana (2015)

The archives contain a significant number of photographic documents attesting to military violations committed by Serbian military formations in the town of Gjakova and the surrounding area. These documents include images of individuals who, according to preliminary data, may be direct participants in these crimes. The photographs allow for the identification of some individuals, including their faces and names, and indicate the involvement of both members of the military and police forces and individual Serbian citizens in the Gjakova region. In Gjakova and surrounding villages, police and Serbo-Slavic paramilitaries, aided by the so-called local police, committed numerous acts of violence against Albanian women and girls. This is also confirmed by artefacts found during and after the war in Gjakova and the surrounding area. A typical example is the testimony in Figure 4, which shows the violence found in the house of Mush (Mushk-Muse) Jakupi, a local policeman from Osek Hylë Gjakova, taken from the exhibition opened by the Association "War Crimes of Gjakova 1998/1999", Art Gallery of the Palace of Culture "Asim Vokshi", Gjakova, 11 May 2022.

Figure 4. Evidence of violence against Albanian girls and women found in and around Gjakova
Source: J. Mertus (1999)

Summarizing the above facts, it is possible to draw up the following chronological list of events and crimes in Gjakova (1998-1999):

1. Spring 1998: escalation of the conflict in the Kosovo province, where Serb military organizations began operations in the Gjakova region.

2. July 1998: the first large-scale incursion of Serb military organizations into Gjakova and its surroundings.

3. November 1998: large-scale searches, arrests, and disappearances of Albanian residents of the city as a result of the actions of the Serb military organizations.

4. January 1999: further deterioration of the situation and escalation of violence in Gjakova, including crimes against the Albanian population.

5. March 1999: NATO military intervention in Kosovo under Operation Allied Force.

6. April 1999: end of hostilities, retreat of Serb military organizations from Gjakova.

7. May 1999: mass liberation of the Albanian population and the establishment of international control in Gjakova.

After the establishment of international control, investigations into war crimes, including those committed by the forces of the Serb military organizations, were carried out. Many perpetrators were also arrested and put on trial in The Hague before the International Criminal Tribunal for the former Yugoslavia (ICTY). In the 2000s and 2010s, many perpetrators were sentenced to prison terms or received other types of punishment. However, some perpetrators may remain at large or avoid prosecution for various reasons, including political amnesty. Therefore, the search for the perpetrators involved in the above-mentioned events is still ongoing.

The events in Gjakova highlight several important aspects in the global history of law enforcement and criminal justice. In particular, it concerns the international control and investigation of war crimes. After the end of the conflict in the former Yugoslavia, international control was established and war crimes investigations were launched. This underscores the importance of delivering justice and punishing those responsible for serious violations of international law. Another aspect is the International Criminal Tribunal for the former Yugoslavia. The establishment of the ICTY and its work have become an example of an international legal system aimed at prosecuting and punishing those accused of war crimes. This is an important step in the development of international justice. An important fact was the use of criminal profiles and physical evidence. The investigation of the Gjakova murders opened up new opportunities for solving crimes, taking into account the criminal profile and physical evidence. This influenced the development of modern methods of forensic science and statistical analysis in criminal investigations, and improved the effectiveness of law enforcement agencies in detecting and solving crimes.

Based on the analysis of these events, the following conclusion can be drawn: in post-conflict situations, it is critical to adhere to the principles of justice and reconciliation. Therefore, there is a constant need for additional study, analysis, and improvement of existing methods of international justice and criminal justice. The purpose of such improvement is not only to guarantee the effective administration of justice, but also to create mechanisms to prevent similar crimes in the future.

Discussion

These events, which became decisive for the course of the conflict in Kosovo, are the subject of research by many scholars. Particular attention is drawn to media coverage of these crimes, as it can help or hinder an objective assessment of their consequences.

In particular, A. Vanchoski (2021) analyses the Washington Post's position on the war in Kosovo in the spring of 1999 and the way these events were presented during Operation Allied Force, NATO's war against Yugoslavia. The analysis looks at several key aspects, including the presentation of events: how events were reported, how the parties to the conflict were portrayed, and how key moments in the war were covered. It also examines how the newspaper's reporters fit into the narrative of the war. This includes approaches to choosing topics, facts, and supporting or criticizing a particular point of view in the reports. In addition, the author examines specific language structures, evaluative phrases, and the ways in which participants in the events were included or excluded from the narrative. This can indicate the extent to which the newspaper aligns its discourse with the general line of the government or official positions. It is important, according to the researcher, to determine what topics were emphasized in the articles – whether there was demonization of Serbs, whether there was selective coverage of events and what aspects of the conflict remained unreported. It also analyses in detail whether the Washington Post actively shaped the dominant national discourse or was in line with the official positions of the NATO and US governments. This indicates the degree of independence or dependence in media coverage. Such a comprehensive approach allows determining the influence of the newspaper on the formation of public opinion, understanding of events and public reaction during the war, and also highlights the degree of objectivity and independence of journalism in this context. The author concludes that the Washington Post did not act as a counterweight to the dominant national discourse during the Kosovo conflict. On the contrary, the newspaper interacted with the official positions of the NATO and US governments. This suggests that the media landscape of the time reflected alignment with official political positions, which can influence the public's overall understanding and reaction to military events and crimes (Vozniuk & Hryha, 2023).

A.A. Fleischer (2023) work explores important aspects of Western intervention in the study of events in Kosovo and Gjakova and the transformation of Kosovo into an object of international attention and security. The author uses eyewitness accounts, NATO archives, and media content to examine how attention to Kosovo has shifted from the periphery to the centre of Western attention. Important issues highlighted in the article include the role of humanitarian interventions and Western interests, the dynamics of the international response to the Kosovo crisis, and the influence of political elites on conflict management. The author emphasizes that the humanitarian military intervention in Kosovo was justified not only by geopolitical interests, but also by a change in the perception of the conflict, which contributed to the active involvement of the West in the institutional resolution of the crisis. The article offers a new perspective on the interaction between the perception of events and state intervention in international conflicts, and considers Kosovo as an example that may have important implications for understanding other global crises. In the context of the study of war crimes in Kosovo and Gjakova, the article provides important conclusions about the legitimacy of international intervention in military conflicts and its impact on the dynamics of events.

The peculiarities of the geographical and demographic situation in Kosovo are also evidenced by S. Kushi (2023).

These peculiarities have been studied in the context of complex political and social processes, such as political conflicts, NATO bombing in 1999, ethnic cleansing and persecution. The author emphasizes that these events had a significant impact on the ethnic structure of the region. As a result of the above-mentioned events, about 220,000 people have been displaced from Kosovo since June 1999. The majority of the displaced were Serbs, but also other non-Albanian groups such as Montenegrins, Gorani, Roma and Ashkali. Previously ethnically diverse settlements have become ethnically homogeneous, with a predominant Albanian population. It is noted that Albanians currently account for 93% of the population, while other ethnic communities make up only 7%. These demographic and ethnic shifts have had an important impact on the nature and extent of the conflict in Gjakova.

S. Milosavljević *et al.* (2023) analyse the role and dynamics of US and European Union external intervention in the Balkans after the breakup of the former Yugoslavia, particularly in the context of competition and possible changes in light of China's growing influence in the region. The author notes that in the recent history of the Balkan region, especially after the collapse of the former Yugoslavia, the United States has emerged as a key external actor. It has used NATO as a strategic tool and provided security in the region by initiating important international missions and operations, such as SFOR and IFOR in Bosnia and KFOR in Kosovo. However, over the past two decades, the European Union has become the main external actor in the Balkans (Shahini *et al.*, 2024). It has taken an active role in ensuring stability and peaceful resolution of conflicts, particularly in Kosovo, Bosnia, and North Macedonia. The EU initiated the establishment of various international missions and made important decisions for the region. The author points out that the rise of China and its growth in the international arena could disrupt the EU's dominant role in the Balkans. China is actively developing an economic partnership with the region, with investments in infrastructure and police cooperation, especially in Serbia (Aryn *et al.*, 2021). This may trigger a rethinking of the EU's regional role, which is marked by the lack of a clear strategy on this issue. With the growing interest of other countries (including the US, Russia and Turkey) in the region, the author highlights the possible shift in regional forces and power structures. Taking a realist approach, the author analyses the situation in terms of great power competition and spheres of influence, examining the strengths and weaknesses of different theoretical approaches and using the Serbian case as an example to understand the relationship between Europe and China. In the context of the Gjakova war crimes trial, the article focuses on the analysis of the external role of the United States and the European Union in the region after the breakup of the former Yugoslavia. It points to the transitional nature of the influence of both actors, ranging from the active involvement of the US through NATO in conflict resolution, particularly in Kosovo, to the growing role of the EU, which may be challenged by China and other external actors, which could affect regional power relations and conflict outcomes.

Covering the period from 1998/99 to 2019, M. Lišanin (2023) analyses the discourse on sexual violence and examines the actors involved, paying attention to the phenomena of silence and "refusal". In the years 1998-1999, international actors, including NATO member states, included sexual violence in their narrative to justify military intervention. It was only in 2012, after more than a decade of silence, that conflict-related sexual violence began to be included in the narrative of heroism and victory in Kosovo. The researcher highlights the key points of disclosure of sexual violence in war when it is used for political purposes as a threat to national security. In the end, the author shows that aspects of gender hierarchy were disguised, contributing to the repeated concealment of facts about individual victims of sexual violence.

In her article, K. Zeidler (2022) emphasizes that at the current stage of politics in Kosovo and Serbia, as well as international actors such as the UN, NATO, and the EU, have developed political communication strategies. According to them, external intervention in the processes of state-building and consolidation in South-Eastern Europe should have a major impact. On the basis of theoretical critical studies in the field of security, the researcher illustrates the phenomenon of "securitized state building" with the help of regulations that exclude interethnic violence. Such a measure, according to the scholar, may affect regional processes of de- and re-territorialisation in the future. The author also emphasizes that the study of crimes against humanity is important not only for ensuring justice, but also for preventing similar events in the future, promoting international stability and strengthening human rights as generally accepted moral and legal principles. According to him, international experience of war crimes trials shows that there is no statute of limitations for such crimes. Thus, as long as the principles and goals of the United Nations and international humanitarian law are in force, human rights will be protected by the international community, and all acts of disrespect for human rights will be punished. It is important that countries learn from their mistakes and continue to work on improving the international legal system, as this is the only way the UN can achieve its goals. All of these aspects are essential to ensuring peace, justice, and stability in the region and can serve as a basis for further research and action in this area.

Conclusions

Overall, the crimes committed by Serb military groups in Gjakova have caused a huge humanitarian problem: thousands of people have been killed and many more have been forced to flee their homes to escape the violence. These incidents demonstrate the need for the international community to take action to stop these heinous crimes and ensure accountability.

An investigation into the crimes committed by Serb military groups in the Gjakova region could make an important contribution to understanding these events and their implications for the entire region. It can help to uncover the truth about crimes against humanity, bring them to justice, and facilitate the process of justice. Such research can also contribute to peace, reconciliation, and building understanding between national and ethnic groups. In this regard, the relevance of the work remains important, and researchers, historians, human rights defenders and other stakeholders can continue to study this topic to uncover the truth and prevent similar tragedies in the future. Between 1998 and 1999, the town of Gjakova witnessed horrific crimes committed by military groups affiliated with the Serbian army. This time was crucial for the course of the conflict in Kosovo, where fighting and ethnic tensions caused thousands of people to

suffer. During this period, many innocent civilians, mostly of Albanian origin, fell victim to the brutal human rights violations committed by Gjakova. These crimes include massacres, assaults, destruction of property and forced evictions. This behaviour targets the victim's intimate and ethnic identity, causing severe pain and trauma.

One of the most high-profile incidents was the massacre in the village of Maidan, where 17 Albanian civilians were killed by Serbian security forces in August 1998. This tragic incident only increased tensions and violence in the region. Overall, the crimes committed by Serbian military groups in Gjakova caused a huge humanitarian problem: thousands of people were killed and many more were forced to flee their homes to escape the violence. These incidents demonstrate the need for the international community to take action to stop these heinous crimes and ensure accountability. This study is therefore an important tool for achieving peace and stability in Kosovo and can serve as a basis for further actions and initiatives aimed at resolving the conflict and ensuring peace in the world. Detailed locality-specific case studies on additional towns and villages impacted could uncover fuller extent of atrocities and add more individual testimonies to the historical record. Examining command structures and internal communications within Serbian military and police could provide further confirmation of superior orders directing local forces. Forensic analysis at crime scenes and mass graves may offer scientific evidence linking remains to locations and methods of killings. Focused study on groups like paramilitaries acting alongside official forces could show wider participation in ethnic violence. Cross-referencing military archives with records of refugee flows may also indicate premeditation in displacement. Broader research questions could explore long-term psychosocial effects of trauma within families and communities.

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Conflict of interest

None.

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Злочини сербських сил у муніципалітеті Джяковиця (1998-1999)

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Анотація. Місто Джяковиця, яке на момент подій 1998-1999 років було територією автономного краю Косово (фактично Республіки Косово), під час розпаду колишньої Югославії стало ареною жорстоких зіткнень. Тому актуальність статті полягає в необхідності проаналізувати злочини, учинені сербськими військовими угрупованнями в районі Джяковиці з 1998 по 1999 рр. Мета дослідження – виявити характер, масштаби та наслідки цих злочинів та встановити зв’язок між подіями в Джяковиці та загальним перебігом конфлікту в колишній Югославії. Для досягнення поставленої мети використано такі методи: аналітичний, порівняльний, тематичний, синтетичний, індукції та дедукції, абстрагування та узагальнення. Шляхом аналізу архівних документів, свідчень очевидців, міжнародних звітів та інших джерел виявлено мотиви, тактику та стратегію вчинення злочинів військовими формуваннями. З’ясовано роль цих злочинів у контексті виваженого розуміння югославських війн та їхнього впливу на подальші події і процеси в регіональній стабільності та правопорядку. Детально аналізуються різні аспекти злочинів, зокрема масові вбивства, етнічні чистки, насильство та порушення прав людини. Особливу увагу приділено ролі сербської армії в цих подіях, її організаційній структурі та взаємодії з іншими угрупованнями. Дослідження також вивчає міжнародну реакцію на ці злочини, включаючи дії міжнародних організацій і спроби притягнути винних до відповідальності згідно з міжнародним правом. Крім того, розглянуто роль цих подій в історичному контексті та їх вплив на подальший розвиток регіону. Практичне значення статті полягає у виявленні нових фактів, що підтверджують вчинені злочини та які можуть бути використані в судовому розгляді

Ключові слова: війна на Балканах; порушення прав людини; етнічні конфлікти; масові вбивства; етнічні чистки

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Role of legal regulation in the establishment and development of the public administration system with local self-government aspects

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Abstract. The evolution of society creates new trends that significantly affect the legal status of public administration, which necessitates an up-to-date study of the accompanying changes. The study therefore aims to analyse the current legal system of Albania and other countries in terms of the impact of legal acts on the entire system of public administration, including local self-government. A set of methods was used in the study, including the analysis, grouping, induction, formal legal and comparative legal approaches. The study identified the overall impact of legal regulation on the entire governance system and society, which was used to formulate specific aspects in which the real interaction of state mechanisms and legal influence takes place. The study analysed the current political and economic situation in Albania, which revealed the main trends in the country's current strategic directions. Subsequently, the identified directions were studied in detail, which ultimately made it possible to substantiate the importance of the list of strategic legal acts in shaping the development of the entire public administration system. Examples from other countries, such as Germany, the United Kingdom and China, were also used to study this topic, identifying the main differences in the impact of legal regulation on the development of the system under consideration, considering the specific legal, social and economic situation of each country. In addition, the complex also examined the institution of local self-government, which showed how the level of decentralisation of such bodies can affect the success and efficiency of their functioning. In practical

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terms, this study can be useful for scholars who can deepen their understanding of the dynamics of public administration development and for officials who want to understand the essence of the interaction discussed in the study

Keywords: decentralisation; reform; strategic direction; devolution; public control; administration

Introduction

The research relevance was determined by the nature of the interaction between legal regulation and the mechanism of public administration, which is particularly significant in the context of related social, economic, and political phenomena. This institution evolved in a specific way, differing from country to country, however, this study focuses on the Albanian context, where the importance of this issue is further determined by the position of the state as a young democracy that has gone through a complex process of formation and development, one of the key aspects of which was the strengthening of local self-government.

The study was conducted based on the fact that the main problem is the lack of transparency of legal regulation when the regulatory framework can be complex or not sufficiently clear, which makes it difficult to understand the interaction between different levels of government and leads to misunderstandings. On the other hand, the study identified the problematic nature of corruption and the lack of transparency in the functioning of the state apparatus. Another problematic aspect was the ambiguity of the legislation, which often leads to unclear distribution of powers and competencies between different levels of government (Rudenko *et al.*, 2021).

E. Aliaj and E. Tiri (2023) argue that the transition period from the communist regime to integration changes before EU accession was difficult due to political and institutional challenges that required the development of political parties and Albanian society in general. The study analysed the Albanian perspective and challenges, focusing on the standards and nature of EU integration. At the same time, this study did not consider the experience of other countries in this area, which is important for understanding the topic.

Considering the institution of local self-government, it is necessary to mention the study of E. Zenelaj and F. Nurja (2022), M. Frroku (2023). E. Zenelaj and F. Nurja (2022) analysed the process of public consultations in local self-government bodies carried out by the competent authorities and identified procedural shortcomings of this mechanism. M. Frroku (2023) emphasised that the ongoing reforms in Albania aimed to improve the financial and functional efficiency of local self-government are increasingly linking it to all aspects of sustainable development. Mentioning these studies, it is worth noting that they focus only on the study of the forms in which the functionality of local authorities is implemented, while in this paper, such an institution was considered more generally in the context of its development and interaction with public administration.

A study by P. Setyonagoro *et al.* (2022) analysed the legal position of the head of a service or agency in the regulatory acts used in local self-government administration. Study results revealed that the actual position of the head of a service or agency is not reflected in the legislation to the extent envisaged by the law. This legal research aims to study legal principles, systematise legal provisions, study vertical and horizontal synchronisation, legal comparison, and legal history. This study partially reveals the essence of legal regulation on the example of the executive position of a local self-government body, but at the same time, the narrow focus of the topic stated by the authors limited them in determining the role of legal influence on the public administration system.

The study by M. Bincof and M. Çetin (2023) was also beneficial in the analysis of the experiences of different countries in this area. The study assessed the history of comparative public administration and examined the key aspects of the evolution of this mechanism after World War II. Study results demonstrated that in the UK, India and France, a large number of bureaucrats have a significant influence on administrative and political decision-making, which exceeds the influence of elected officials. At the same time, the authors ignored the issue of interaction with local self-government and did not consider the impact of legal regulation.

E. Satka *et al.* (2023) noted that the digitisation of public services in Albania has changed the context of interaction between citizens and civil servants, moving public meetings from the office to technological devices. It was argued that during the last 2005 to 2021, the use of information technology has become important for innovation in public administration, supported by policy frameworks and new institutions (Adanbekova *et al.*, 2022). However, it should be noted that the study of the researchers is limited to only one component of the public administration mechanism, while the subject of this study covers the assessment of the role of legal regulation in this system in the interaction of all its elements.

In summary, the study aims to analyse the impact of legal norms on the processes of formation and evolution of the public administration system, in particular, with a focus on the role of local self-government.

Materials and methods

To achieve the study objective, a range of scientific cognition methods was used, including both general scientific methods of scientific cognition and special legal methods, which allowed the study to formulate and find the necessary data. The predominant general scientific method of scientific cognition was analysis, which was used to review the existing theoretical framework on the role of legal regulation in the system of public administration and local self-government. Moreover, documentary analysis allowed for a thorough study of legislative acts and other regulatory documents governing relations in the field of local self-government. The grouping method was also used, which in this case was applied to combine information from different sources to create a comprehensive picture of the interaction between legal regulation, public administration, and local self-government. In general, grouping the results of empirical research and documentary analysis contributed to the final formulation of generalisations and conclusions. Furthermore, induction was used as an additional method of analysis to identify broad trends in the role of legal regulation in public administration and local self-government based on the analysis of specific examples in their functioning.

Specialised legal methods, in particular formal legal and comparative legal methods, proved to be more applicable.

The former was particularly useful in analysing legal acts to determine their content, structure, and legal force. In addition, the formal legal method was used in the context of clarifying the powers and responsibilities of state and local authorities, as well as determining the mechanisms of interaction between these bodies. As for the comparative legal method, the study involved a comparison of the legal systems of different countries to identify their similarities and differences. In particular, the legal systems of different countries were compared to identify their approaches to regulating the system of public administration and local self-government, and general trends and patterns in development were identified. In addition, to determine the structure of local authorities in the UK, the official government website was used as a source for studying the topic (Local government structure…, 2023).

The legal basis for the study was the laws governing the system of public administration and local self-government in Albania. Thus, the Constitution of the Republic of Albania (1998), Law of the Republic of Albania No. 139/2015 "On Local Self-government" (2015), Law of the Republic of Albania No. 8652 "On the Organization and Activities of Local Self-Government" (2000) and Law of the Republic of Albania No. 152/2013 "On Public Servants" (2013) were used. These documents were used to analyse the legal regulation of public administration and local self-government at the level of Albanian legislative practice.

Since the study compared the legal systems of Germany, England and China, the legal sources used were the Basic Law for the Federal Republic of Germany (1949), the Constitutional Reform and Governance Act 2010 (2010), the Organic Law of the Local People's Congresses and Local People's Governments of the People's Republic of China (1979). The study identified these documents as the most significant examples of legal acts that have influenced the system of public administration and local self-government in the countries under consideration.

Results

Legal regulation is one of the most important factors in the establishment and development of a public administration system for any country. It ensures the unity and coherence of the actions of public authorities, as well as the observance of the rights and freedoms of citizens. An overall and efficient public administration system requires a balance between centralisation and decentralisation, i.e. a harmonious structure and interaction between state and local governments, and legal regulation plays a crucial role in establishing this balance and ensuring fairness, efficiency, and sustainability in the governance system. In this context, the most important aspects affected by legal regulation have been formulated, considering the subject matter of the study (Table 1).

Table 1. Aspects that demonstrate the interaction between legal regulation and the formation and development of public administration within the framework of the functioning of this institution in the state

Aspect	Interaction area
Basic Principles and rules establishment	Laws and regulations establish the basic principles of public administration and define the structure of government bodies and their competence.
Ensuring legal protection of rights and freedoms	Laws on public administration ensure the protection of citizens' rights and freedoms and define procedures for appealing against decisions of the authorities. Local self-government is also regulated to protect the rights and interests of the population at the local level.
Building transparency and accountability	Legal provisions define the rules of transparency in public administration, including access to information and public hearing procedures. Legal liability mechanisms for abuse of power and corruption are also part of the legal framework.
International relations regulation	Public administration norms also regulate issues of foreign relations and interaction between the state and the international community. This also applies to cooperation at the local level within the framework of inter-municipal and inter-regional relations.
Sustainable development	Laws and regulations may cover aspects of sustainable development, including environmental standards, social programmes and other measures aimed at ensuring welfare and sustainability.
Defining the status of local self-government	Legal norms define the boundaries between the competencies of central and local authorities while ensuring the proper functioning of local self-government. Laws may also provide local authorities with a degree of autonomy and freedom to deal with local issues.

Source: compiled by the authors

It is important to note that Albania is currently experiencing significant progress in the economic situation, public administration, and politics, especially in the context of the strategic national priority – integration into the European Union (Screening report Albania, 2023). To join the EU, Albania must meet certain criteria, including the rule of law, the rule of law, the existence of a market economy, and others. Ongoing reforms in all areas indicate major changes in the country. The process of integration is determined by the reforms implemented by the state, which involve the active participation of all actors in society. In particular, the position of local self-government should be emphasised, which, although not the main participant in managing this process, is affected by integration changes both in organisational and operational terms.

After the fall of the communist regime in 1991, the Albanian public administration system was one of the weakest links in the country (Aliaj & Tiri, 2023). The actions of the political leaders of the time, who were losing popular support, undermined the management of people and programmes that had previously been based on fiscal responsibility and sound technical data. The government subsequently made a general proposal to the international community. It was based on the fact that Albania, which suffered from decades of isolation and the absence of a political or managerial class, asked the international community

to consider special programmes to support the country's future. This was the first significant step towards overcoming the problems in the governance system that had arisen as a result of previous failed promises and strategies of social control at the international level.

In this context, it is worth mentioning the low quality of policy and legislation (Aliaj & Tiri, 2023), which is mainly due to imperfect procedures and inter-agency reviews, insufficient political capacity of ministries and lack of experience in areas such as drafting legislation and impact analysis (Frroku, 2023). Although some progress has been made at the formal level in the last decade due to changes in government policy triggered by EU integration, the system is not firmly rooted and faces risks. The problems with the serious lack of implementation of modern governance practices are partly due to the political system's lack of attention to this aspect. Taken together, these shortcomings are particularly relevant in areas where local governments are actively involved in the implementation of tasks and where success depends on effective cooperation between central government services and local governments. This gap can be addressed by improving state regulation in the area of division of competence between local and central authorities by reviewing the legal framework governing the activities of these institutions. Going forward, it is important to develop a broader strategic framework to improve the effectiveness of the agencies, develop networks of change within ministries, and create strategic alliances with "power centres", which could include legal and financial supervisory authorities. In addition, the development of the concept of "digital government" can actively contribute to solving this issue, potentially involving representatives of civil society with the appropriate level of knowledge and skills (Shahini, 2015a).

Regarding the role of legal regulation in establishing interaction between local administrative units and the central government, using examples of specific legal acts, in this case, first of all, it is necessary to mention the Constitution of the Republic of Albania (1998), which in Article 13 stipulates that local self-government in the Republic of Albania is established based on the principle of decentralisation of power and is implemented through the principle of local autonomy, which is further explained in Article 4 of Law of the Republic of Albania "On Local Self-government" (2015). In general, the approval of this legal act played a significant role in the formation of the institution under consideration, as it meets modern challenges and legal techniques, which is especially important given the obsolescence of legal norms enshrined in the previous Law of the Republic of Albania "On the Organization and Activities of Local Self-Government" (2000), which, following Article 96, lost its force in all provisions that contradicted the new one.

The introduction of the new Law of the Republic of Albania "On Local Self-government" (2015) rebooted the system of local authorities and regulated the entire list of social relations involved in the processes of this institution of public administration. To be more specific, Law No. 139/2015 regulates issues related to the essential purpose and fundamental principles of local self-government; the organisation of bodies; their rights and obligations; the procedure for relations with the central government; cooperation between different structural units; public involvement in the work of the institution; the list of functions and powers; the financing system; the method of formation of city and regional councils; the status of the mayor; the rules for managing municipal administrative units; the way public structures function; and the way public institutions operate. In general, based on the legal provisions, it is possible to state that the local self-government in Albania is designed to provide effective and efficient governance that is close to the citizens and is implemented on the principles of legality, local autonomy and self-governance in ways that are as close to the citizens as possible, in particular by providing convenient and quality public services, promoting full community participation in the administration of local affairs and recognising the identities and values of the different communes.

Moreover, the role of legal regulation is to establish a hierarchy of bodies, where municipalities are the basic structural unit and regions are the second level of local self-government, consisting of several municipalities that are "interconnected by traditional, economic and social ties". Instead, Article 7 of Law of the Republic of Albania No. 139/2015 "On Local Self-government" (2015) defines the structure of the municipalities and regions themselves, where representative and executive bodies must be established. In the basic structural unit, this role is performed by the municipal council and the mayor, respectively, and in the other – by the regional council and the chairman and executive staff of the council. Based on the principle of decentralisation, as set out in the aforementioned content of Law No. 139/2015, this study identified ways of interaction between central government and local self-government, which include informing about any issue within the competence of the relevant institution; holding regular consultations on policy and legislation that directly affect the interests of local communities; monitoring the activities of local self-government structures for compliance with the law. However, it is worth noting that all of the above methods of interaction are only a tool for communication between different levels of government, and therefore, if they are overused or, conversely, constantly neglected, the balance of power may be lost, which will lead to a deterioration in the efficiency of the entire system.

It is also worth mentioning the report of the intergovernmental conference, where Albania presented an overview of the comprehensive strategic framework for public administration reform, the Public Administration Reform (SPAR), which has been implemented since 2015. It is based on five strategic documents: The Anti-Corruption Strategy, the Decentralisation Strategy, the Comprehensive Public Administration Reform Strategy, the Digital Transformation Strategy, and the Public Finance Management Strategy. As E. Shahini (2015b) notes, based on the impact of central institutions on economic development and efficiency, the impact of financial crises on the Albanian economy was noted, with the most important problem being financial market instability. The report also noted that new versions of these strategic documents should be developed and presented by the end of 2023 (Screening report Albania…, 2023). The New Comprehensive Strategy in the Field of Decentralization and Local Self-Government for 2023-2030 (2023) was adopted in April 2023, and the Strategy "Agenda digital of Albania" and the action plan 2022-2026 (2022) was adopted in 2022. The new strategies are part of the comprehensive National Strategy for Development and European Integration for 2022-2030 (Screening report Albania…, 2023). This aims to ensure the harmonisation and coherence of all components of the public administration reform policy, which

demonstrates the importance of legal formulation in the development of this system.

Consideration of the legal regulation of the civil service institute is an integral part of a comprehensive analysis of public administration since this area of social relations determines the status of persons who implement the entire scope of functionality assigned to the system under consideration. In Albania, this form of activity is regulated by the Law of the Republic of Albania No. 152/2013 "On Public Servants" (2013), which regulates the following areas of public service relations: the range of subjects of public administration; the procedure for the functioning and performance of work in government bodies; its evaluation and termination; classification of positions; rules for admission to the position and career development; a list of rights and obligations of a civil servant; transfer of employees to another position and the limits of liability for disciplinary offences. Article 2 of the Law of the Republic of Albania No. 152/2013 "On Public Servants" (2013) states that "it applies to any civil servant who performs a public function in a public administration body, independent institution or local self-government body, except for elected ministers and deputy ministers, employees of the judicial administration, members of the Armed Forces, judges and prosecutors and other persons specified by this Law". As for the formation of public administration bodies, the role of the Law of the Republic of Albania No. 152/2013 "On Public Servants" (2013) is to define the tasks and responsibilities of such institutions as the Council of Ministers, the Department of Public Administration, and the Albanian School of Public Administration. The Law of the Republic of Albania No. 152/2013 "On Public Servants" (2013) also singles out as a separate institution the Commissioner for Monitoring of Work in Government Bodies, which is defined as "an independent, legal state institution responsible for monitoring the legality of the civil service".

Albania has four groups of administrative positions: senior, middle, and junior staff, as well as executive staff. Accordingly, belonging to a certain level depends on the current position, which determines the list of powers of the employee, but at the same time, Article 26 of the Law of the Republic of Albania No. 152/2013 "On Public Servants" (2013) provides for the procedure of transfer to a higher level position – a promotion procedure, which is the basic opportunity for career growth for a person after gaining experience and improving qualifications at the Albanian School of Public Administration during the time spent in a lower level position. On the other hand, the definition of the rights and obligations of employees of public administration and local self-government is a concrete manifestation of the role of legal regulation of this system, since the list of real powers of responsible persons reveals how the tasks assigned to them are implemented (Table 2).

Table 2. List of rights and obligations of civil servants in Albania

Rights	Obligations
Right to wages	Obligation to respect the law and provide regular professional training
Right to strike (however, this right is limited to the provision of basic public services, including transport services, public television, water, gas and electricity supply)	Duty of accountability and refusal to carry out unlawful orders
Right to join trade unions and professional associations	Duty of transparency and confidentiality of information obtained in the course of official duties
Right to professional development	Obligation to properly manage state property and working time
Right to be consulted	Duty to avoid conflicts of interest
Right to fixed working hours, time off and holidays	Obligation to declare interests and property
Right to access information and make requests	

Source: compiled based on Albanian Law of the Republic of Albania No. 152/2013 "On Public Servants" (2013)

To conduct a comparative review with the experience of Albania, three different models of public administration were selected, which, however, have distinct features that should be considered in further public policy in this area. Thus, Germany is one of the most successful examples of a continental legal system with an exemplary level of decentralisation of local governments (Ryu, 2023), while the UK has peculiarities due to the Anglo-American legal system (Bincof & Çetin, 2023). Instead, the Chinese model of governance is determined by the influence of communist ideology and Asian tradition on a large scale, which is a unique example for the modern world (Liu *et al.*, 2022).

The main features of Germany's governance system are generating discussions about reform and modernisation in other Organisation for Economic Co-operation and Development (OECD) countries. Due to its federal system, which differs, for example, from the unitary system in Albania, and a distinct decentralised institutional environment, the German system of public administration is a vivid example of multi-level and strong local self-government. This status quo is based on the Basic Law for the Federal Republic of Germany (1949), which, in particular, in Article 28, actually enshrines five levels of government that are independent of each other: The European Union, the federation, sixteen federal states (Länder), land districts (Landkreise) and municipalities (Gemeinden) – the last two of these act as local self-government bodies. Another difference between Germany and Albania is that each federal state has its own law on local self-government, although the general principles are defined at the level of the Basic Law. Ultimately, this creates a situation in which the legal regulation of different districts and municipalities is heterogeneous throughout the country, but at the same time, it ensures maximum autonomy and independence of local governments from the central government.

The study also examined the specifics of the UK, which, despite being considered a unitary state with a certain limited power at the regional and local levels, where central authorities dominate political decision-making, underwent significant changes in its form of government and system of government by the end of the 1990s. During this period, a policy

of regionalisation and decentralisation was introduced in the form of devolution, i.e. the transfer of powers. In the context of this reform, it is important to note that the country has clearly defined evaluation indicators that are included in the legislation and regulate the relationship between the central government and local self-government. These standards for the work of the authorities elected by the citizens cover institutional capacity, service delivery to the population, and community involvement in government. Another significant milestone was initiated by the Constitutional Reform and Governance Act (2010), which laid the foundation for changes in many state processes. Significantly, this law for the first time enshrined the norms governing the civil service at the legislative level, the most important being the provisions that provided for the establishment of the Commission on Senior Civil Service and the granting of powers to the Minister of Civil Service to manage the civil service. In addition, section 15 of the 2010 Law on Constitutional Reform and Public Administration requires that the Minister of Civil Service independently approve the terms and conditions of a specific position such as a special adviser, which, for example, is not present in Albanian practice and is created to provide ongoing advice and professional assistance to ministers. Those appointed to this position are exempted from the requirements set out in section 10 of the same Law on selection through fair and open competition for civil servants.

The organisation of local government in the UK varies from region to region. The continental legal system has led to the existence of many regulations governing the activities of local authorities. For example, in most of England, there are two levels of local government – counties and districts – between which responsibilities for service delivery are divided. London, along with various urban areas and certain regions within England, follows a unified organizational structure, where local councils manage all aspects of public services. England has a total of 317 local authorities categorized into five types: unitary authorities, county councils, London boroughs, metropolitan districts, and district councils (Local government structure…, 2023).

China's state system was another case study, where the planned economy and communist party leadership created a specific system of governance that differs significantly from what is common in Europe, including Albania. Thus, compared to the nominal functions of the government, its real role is defined more narrowly and specifically: it concerns administrative bodies in the process of providing public services. In the context of China, the real role of the government was defined as somewhat limited, especially when compared to the positioning of government functions in legal acts. This was justified by the fact that the development of the socialist market economy and the influence of the international New Public Management movement led to the government losing its status as a single entity of public administration (Liu *et al.*, 2022).

As in Germany and the United Kingdom, and unlike Albania, China's local government legislation is governed by several laws and regulations. The main legislative act in the modern period that regulates the basic principles and structure of the local government system is the Organic Law of the Local People's Congresses and Local People's Governments of the People's Republic of China (1979). Article 1 of this Law states that "people's congresses and people's governments shall be established in provinces, autonomous regions, municipalities, and shall be directly subordinate to the central government". The structure of local government consists of four levels (province, prefecture, county, and city), and the main governing body is the local people's congresses. However, all things considered, the existence of a centralised system of governance in China defines a clear state framework for the functioning of local authorities.

Thus, study results indicate that the role of legal regulation in the process of formation and development of the public administration system is of key importance for the formation of an effective system of governance at various levels of government. The relationship between legal regulation and the functioning of the public administration system is determined by many aspects, the successful implementation of which guarantees the sustainability, legitimacy, and compliance with the requirements of citizens of this mechanism. In particular, the consideration of local self-government has shown that legal support for the autonomy and powers of local authorities plays an important role in the development of democratic processes and in meeting the needs of the population at the local level, which is reflected in the experience of such developed countries as Germany or the United Kingdom, and also indicates significant progress in this direction in Albania in the context of recent reforms. Legal stability and the rational organisation of governance mechanisms are key to the successful functioning of the system, promoting sustainable development and interaction between central and local authorities.

Discussion

Study results were obtained, among other things, with the help of specialists who studied the mechanisms of functioning of various public administration institutions in their interaction with legal regulation, which made it possible to assess and analyse their role in the formation and development of this phenomenon from a multidimensional perspective. Furthermore, many studies examined the mechanism of public administration through the prism of other significant factors, such as the specifics of a country's legal system or the current trend towards digitalisation, which was certainly beneficial in the context of a more comprehensive approach to the study of this topic.

Given the purpose of the public administration system, it is first of all advisable to mention the studies of A. Karataş (2022), Y. Ural Uslan and Ş. Erten (2023), which discuss this mechanism in the context of public trust and good governance principles. In particular, Y. Ural Uslan and Ş. Erten (2023) conducted a survey in one of the provinces of Turkey, the results of which showed that all four dimensions of governance have a statistically significant positive impact on public trust in public administration. This study suggests that positively effective public service delivery mechanisms have a positive impact on citizens' trust in public administration, which is crucial for the continuity of a republic's development. However, at the same time, this study leaves out the applied legal component, which was the primary focus of this article. The study by A. Karataş (2022) emphasised that the key prerequisite for improving the efficiency of public administration, implementing the principles of governance and creating a competitive modern state is inclusiveness and high-quality legislation. At the same time, a special role is played by the analysis of regulatory legal influence, which contributes to the formation of public policy, where the phenomenon of governance is considered in connection with the

public administration system, but at the same time, the author does not specify the role of local self-government in the processes under consideration.

J. Ryu (2023) conducted a comparative analysis of the legal systems of Switzerland and Germany, where local governments and their associations are actively involved in the legislative process. Thus, the author noted that in Switzerland, the constitutional level regulates in detail the participation of local governments in law-making. At the same time, the experience of Germany has shown that local governments can actively influence the legislative process through referendums and participation in legislative processes in parliament (Vojtyk, 2023). The results of the study by the researcher showed how legal regulation in developed countries can expand the competence of local governments, while this article demonstrates ways to implement such a practice in Albania.

The next study to be considered was one of S. Vedder *et al.* (2023), which examined administrative reforms aimed at creating models of governance that meet the objectives of public administration. The authors investigated the question of how different branches of public administration within one administrative system interact with the ideas of global public administration. The study provides insight into the potential for long-term development of the structure and perception of public administration through the prism of various reforms. By identifying the shaping influence of administrative traditions on the public administration system, the study provides a basis for further comparative research in other countries and administrative systems. On the other hand, the researchers did not sufficiently explain the aspect of the interaction between public administration and local self-government.

T. Molobela and D. Uwizeyimana (2023) studied the implementation of the latest technologies in the activities of the modern public administration system. The researchers highlight the incorporation of e-government as a means to enhance the efficiency of public administration, addressing issues related to management, public service delivery, accountability, and transparency in governmental affairs. Consequently, the authors assert that the exploration of e-governance as a fresh approach to public administration is constrained by disparities, systemic shortcomings, and insufficient information and communication technology infrastructure for democratic governance that includes all citizens. However, the study by the researchers does not consider how new technologies have affected the activities of local self-government, which was also important to consider.

It is also worth mentioning the study by C.M. Sjöberg (2023), where the main problem in the implementation of legal automation in public administration is the transformation of legal information into a digital environment. In this regard, the regulation of automated decision-making, machine learning and artificial intelligence raises many issues that were considered in the study. The authors also noted that to a large extent, the development of society is associated with the search for proactive law as a supplement to traditional preventive law. It is emphasised that the legal infrastructure should be considered at the early stages of design, development, implementation, and management of the system (Ladychenko *et al.*, 2020). In general, the researcher superficially examined the legal functioning of public administration and local self-government institutions but given the adaptation of these bodies in Albania to current trends and the need to prepare for prospects, it is important to legally define the role and functions of the infrastructure used within the framework of the activities of state structures.

To consider the specifics of other countries, in particular, a thorough study by A. Aristovnik *et al.* (2022; 2023), which argued that public administration and management should respond to the changing socio-economic environment, contributing to the improvement of quality, efficiency of processes and cooperation, was also considered. The study by the researchers examined the principles of different models of public administration in the example of Slovenia and Japan. The results showed that the public administration institutions in both countries are largely marked by the principles of the (neo)Weberian model, while the local authorities in Slovenia show a certain focus on the principles of digital age governance and good governance (Kolosovska, 2023). This thesis is substantiated in more detail in another paper by the researchers, which identified the existing difference in the characteristics of public administration practices between public administration and local self-government, considering European practice. The results of the studies filled in the gaps in the study of different models of public administration and how they are implemented at different levels of government in Slovenia and Japan, but, unlike this article, the authors did not analyse the role of legal regulation and related means that influence the development of the public administration model.

W. Liu *et al.* (2022) emphasise the key features of China's system of power, governance, and public administration, and describe the evolution of public administration studies from the early twentieth century to a modern, mature, and globally connected discipline. It is noted that China is undergoing localisation and decentralisation, as well as experimenting with cooperation and network-based policymaking. However, the system of governance and public administration remains essentially top-down and centralised, with a centre equipped with strong political levers and control over society (Zheng, 2023). In this context, it is worth mentioning the study by A. Guogis *et al.* (2023), which studied the research conducted by Lithuanian scholars in the field of public administration. The authors determined that the Lithuanian model of public administration focuses on the goals of government reform, modernisation of the civil service, creative solutions, trends, and reforms in both central and local administration. These papers formulated completely different approaches to the exercise of power by state and local governments, which indicated how the experience of the Albanian system differs from other legal models.

S. Kuhlmann *et al.* (2022) focused on the impact of reforms in recent decades in European countries on the implementation of legally regulated tasks and services at the local level. Furthermore, the authors outlined the function of local self-government within various administrative models across Europe. They examined key aspects of local self-government systems, drawing comparisons based on relevant concepts within comparative public administration. The study explored diverse forms of local self-government and administrative systems throughout Europe, each exerting a substantial influence on administrative development and general policy reform. This, to some extent, substantiates the existing trajectory of the development of the examined body systems, including those in Albania.

Another in-depth study that focused on the topic of local self-government was the book by J. Kostrubiec *et al.* (2021),

which emphasised that municipalities have always had a significant status in national administrative systems. The study analysed 13 municipal systems in the European Union, covering countries from all regions, and focused on assessing the impact and level of implementation of the standards set out in the Charter of Local Self-Government. In line with these standards, the way the Charter has been implemented, as well as the transformations and reforms over the past decades, has been studied, which correlates with the transformation in Albania discussed in this article. However, despite the active use of a legal approach, the analysis of the role of local self-government was key to the research, giving the paper a broader, social science character.

In conclusion, it is possible to state that the assessment of the role of legal regulation in the development and formation of the public administration system, including local self-government, is a complex scientific task that can be solved only by considering the maximum of all factors of influence that can characteristically affect this mechanism. In addition, the study of this issue includes the specifics of different countries with different legal doctrines, which is reflected in the corresponding differences in the law enforcement practice of each state.

Conclusions

The public administration system is an integral attribute of the functioning of any modern state, and therefore its study, in particular in interaction with such an essential tool as legal regulation, will always remain a topical issue in the scientific community. As the study of the stated issues has shown, the constant change of trends and the State's having to adapt to the changes provoked by the development of technology and society have a significant impact on the activities of the entire State apparatus and the content of legal provisions regulating its activities. Using more specific examples, this study proved the direct dependence of the formation and development of the system of public administration and local self-government on legal acts, which was demonstrated in specific aspects of interaction.

The study considered the historical factors influencing the evolution of public administration in Albania and examined the strategic directions for further restructuring of the system. The analysis of the legal regulation of local self-government showed the vector of development of this phenomenon in the country, in particular the trend towards decentralisation and ways to implement the principle of local autonomy. The Institute of Civil Service in Albania as an important element of the public administration system was studied in detail, which showed how the work of officials is regulated. As for other countries, the authors have studied the experience of China, Germany and the UK and have shown that the role of legal regulation is ambiguous and needs to be studied in each potential object for scientific discussion separately.

Thus, the study showed that Germany and the UK, as the leading European countries, maximise the decentralisation of local governments and the multiplicity of legal acts regulating this area. China, on the other hand, has an absolute centralisation of power that makes all government bodies, including local ones, dependent on it. Given the above, a recommendation was made to improve the professional legal technique for a more transparent understanding of the meaning of legal acts, which at the same time should be aimed at establishing an ideal balance between decentralisation and higher subordination of various public administration and local self-government bodies. Development in this direction will show in practice the improvement of the functioning of all bodies, as well as legal science. However, the research requires further study of topics related to specific proposals for the development of legislation and improvement of mechanisms of interaction between public administration and the public.

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Роль правового регулювання у становленні та розвитку системи державного управління з урахуванням аспектів місцевого самоврядування

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Анотація. Еволюція суспільства породжує нові тенденції, які суттєво впливають на правовий статус публічної адміністрації, що зумовлює необхідність актуального дослідження супутніх змін. Тому метою дослідження є аналіз сучасної правової системи Албанії та інших країн з точки зору впливу нормативно-правових актів на всю систему публічної адміністрації, включаючи місцеве самоврядування. У дослідженні було використано комплекс методів, включаючи аналіз, групування, індукцію, формально-юридичний та порівняльно-правовий підходи. У ході дослідження було визначено загальний вплив правового регулювання на всю систему управління та суспільство, що було використано для формулювання конкретних аспектів, в яких відбувається реальна взаємодія державних механізмів та правового впливу. У дослідженні було проаналізовано сучасну політичну та економічну ситуацію в Албанії, що дозволило виявити основні тенденції в поточних стратегічних напрямках розвитку країни. Згодом визначені напрями були детально вивчені, що в підсумку дозволило обґрунтувати важливість переліку стратегічних правових актів у формуванні розвитку всієї системи державного управління. Для вивчення цієї теми також були використані приклади інших країн, таких як Німеччина, Великобританія та Китай, що дозволило виявити основні відмінності у впливі правового регулювання на розвиток досліджуваної системи з урахуванням специфічної правової, соціальної та економічної ситуації в кожній з країн. Крім того, в комплексі було досліджено інститут місцевого самоврядування, що показало, як рівень децентралізації таких органів може впливати на успішність та ефективність їх функціонування. У практичному плані це дослідження може бути корисним для науковців, які зможуть поглибити своє розуміння динаміки розвитку державного управління, а також для посадовців, які хочуть зрозуміти суть взаємодії, про яку йдеться у дослідженні

Ключові слова: децентралізація; реформа; стратегічний напрям; деволюція; громадський контроль; управління

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Legal basis of state regulation of migration processes in the Kyrgyz Republic in the context of global changes

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Abstract. The relevance of this study lies in the need to consider in detail the legal basis for state regulation of migration processes in the Kyrgyz Republic in connection with the possible development of the migration crisis in the Middle East and Europe. The purpose of the study is to investigate the legislation of the Kyrgyz Republic regarding the full and proper consolidation of legal norms aimed at regulating migration in accordance with the state's migration policy based on national interests, international standards, and current migration trends. The following general scientific and special methods were used to conduct the research: formal legal analysis, dogmatic method, synthesis, deduction, and generalisation. In the course of the study, the basis of national legislation in the field of migration regulation was considered. In accordance with the key elements, three aspects of legislative regulation of migration processes in the Kyrgyz Republic were also identified. These included such aspects as: constitutional, international and national legislation. Based on the findings, it was determined that the legal regulation of migration processes in the Kyrgyz Republic, considering a large array of regulatory sources, is currently being developed and reformed. Some legislative acts do not contain legal consolidation of state protection of the rights of citizens of the Kyrgyz Republic located outside

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the state. Mechanisms for providing such support to migrant citizens were also not identified. It was concluded that attention should be paid to the development of a well-thought-out migration policy of the state, since the further vector of development of the migration legislation of the Kyrgyz Republic depends on political decisions

Keywords: legislation; labour declaration; departure for work; international documents; political decisions

Introduction

In the 2020s, interest in the topic of population migration has resumed in the international arena due to the economic consequences of the COVID-19 pandemic, the destructive element caused by climate change and armed conflicts – unfavourable events that have become the main factors that have affected the activation of migration processes. Despite some distance from global migration centres, Kyrgyz Republic also falls under the influence of international migration processes. According to the data of the state body implementing the state's migration policy, at the moment more than 750 thousand residents of Kyrgyzstan are located in other countries, which, according to the director of the Department of Foreign Migration of the Ministry of Foreign Affairs of the Republic of Kyrgyzstan, T. Kaimazarov, is also conditioned by problems with employment in rural areas and the lack of prospects for career growth of the younger generation (There are over…, 2021). He also focuses on the attitude of young people to labour migration, and the possibility of improving their status in society by obtaining stable employment and a decent salary. In turn, according to the information of the National Statistical Committee, more than 20% of the surveyed citizens, age group over 50 years old, are in a situation where their children are abroad (Concept of Migration…, 2021).

G. Muhametjanova and G.A. Adanır (2023) devoted their study to migration issues in Kyrgyzstan. They considered the psychological health of children of migrant workers who face a long absence of one or both parents in the country. Unfortunately, the topic of migration, despite its significance, is not sufficiently disclosed in the scientific community, but some researchers still pay attention to it in the light of other events. A. Sayakbaeva *et al.* (2021) conducted a study that, among other things, focuses on the impact of the COVID-19 pandemic on migration processes in Kyrgyzstan. According to researchers, the pandemic had a negative impact on migration processes, as it led to a reduction in migration by 21.1%, which negatively affected the social and economic situation in the Kyrgyz Republic due to lack of jobs. In turn, M.O. Akhmetkaliev (2022) studied the impact of the general situation with illegal migration due to the pandemic and closed borders in the world on the policy of the government of the neighbouring state of Kyrgyzstan, the Republic of Kazakhstan in the relevant sphere. The researcher drew attention to the fact that during the period of introduction of restrictive measures to prevent the spread of the virus, a significant increase in illegal border crossing with the use of fake documents or illegal obtaining the right to leave, acquired in the course of transactions with criminals through online communications, and in production and sale of which employees of state structures are involved. Migration issues in Kyrgyzstan have also received attention from F.M. Critelli *et al.* (2021). The study examined the experience of labour migration of twenty families and drew conclusions about the economic conditionality of decisions to leave for work. A number of interviews with members of migrant families discussed the impact of labour migration on the lives of these families.

Another group of researchers consisting of E.T. Hofmann and G. Chi (2022), drew attention to the influence of the practice of stealing brides on the processes of migration to Kyrgyzstan. The material and migration aspects of life of such households and the tendency of women to use migration to avoid or get rid of situations of this kind were considered in detail. It is worth considering research by A. Murzakulova (2022), which details the role of agriculture, which is not given enough attention in migration policy, on the Kyrgyz economy and emphasises the existing relationship between migration and the crisis in the agricultural sector. Attention should also be paid to the studies conducted on the legislative consolidation of the state migration policy. Thus, M. Reviglio (2023) draws attention to the practice of migration agreements with the countries of the EU and the application of "soft law" norms in them, which are used to move from legal force to legal efficiency.

The study of migration processes is of great importance for the legal consolidation of their regulation, both on a global scale and in specific conditions for the states under consideration. Migration legislation in many countries is a direct reflection of the state's migration policy, which is also typical for Kyrgyzstan. Thus, the main purpose of the study is to structure and investigate the legislation of the Kyrgyz Republic in the field of migration law as a way to consolidate the migration policy of the state.

Materials and methods

To investigate the features of legislative consolidation of the migration policy of the state in the Kyrgyz Republic, such general logical methods as analysis, synthesis, deduction, induction, and generalisation were used. The study examined the main sources of migration law in Kyrgyzstan, which include: the Constitution of the Kyrgyz Republic, international agreements and the national legislative framework represented by the laws of the Kyrgyz Republic, such as the Law of Kyrgyz Republic "On External Migration", the Law of Kyrgyz Republic "On External Labour Migration", the Law of Kyrgyz Republic "On Internal Migration". The study was conducted as follows: first, laws and regulations were considered, the scope of regulation of which relates to the Migration Law of the Kyrgyz Republic, then they were divided into appropriate groups, each of which was comparable to a certain aspect of fixing the legal regulation of migration laws processes in Kyrgyzstan. After that, their main features and key factors influencing migration processes in the state were highlighted. The materials obtained were also used in the final part of the study.

The formal legal method was used to specify the features of legislative consolidation of migration processes from general information about socio-economic factors affecting their activation and development. Moreover, the formal legal analysis was applied in a more detailed consideration of the various aspects through which the migration policy of the state finds its manifestation, including through the adoption or ratification of relevant regulations. The synthesis was

used to combine the features of legislative consolidation of norms aimed at state regulation of migration processes in the Kyrgyz Republic identified in the process of analysing them. The synthesis was also used to generalise the features of constitutional and international aspects, and the aspect of national legislation. The deduction was used for a more detailed study of the features identified in the synthesis process that are characteristic of the legal regulation of migration processes by the state in Kyrgyzstan. Data on these features were obtained in the process of applying other methods and structured using their subsequent grouping. The dogmatic method was used to form a general opinion about the features of state regulation of migration processes, information about which was obtained during the synthesis. The dogmatic method was also used in a similar generalising conclusion concerning the features of constitutional, international aspects and aspects of national legislation highlighted in the course of synthesis.

The generalisation was used to structure all the features found concerning the legal basis of state regulation of migration processes in the Kyrgyz Republic, information about which was obtained using other methods. In addition, the generalisation was used for a general consideration of the absolute majority of features specifically for each of the aspects of legal consolidation of the migration policy of the state, implemented through the adoption or modification of the relevant norms and provisions of the Constitution and laws of the Kyrgyz Republic, and the ratification of international documents.

Results

For the effective implementation of state regulation of migration processes, a well-thought-out and weighted migration policy is necessary, the main provisions of which will be consolidated in migration legislation. In turn, the norms of migration law, which are properly consolidated in legislation, will create a legal basis for implementing migration policy in accordance with the national interests of citizens of Kyrgyzstan. Thus, during the period of independence, the Kyrgyz Republic has developed an extensive legislative framework that creates legal bases for the state to regulate various types of migration. The official documents defining the strategy of Kyrgyzstan in the migration sphere include: the Constitution of the Kyrgyz Republic, those of the international documents ratified by Kyrgyzstan aimed at regulating the labour rights of citizens, and national legislation.

The Constitution of the Kyrgyz Republic establishes the basic rights and freedoms of all citizens of Kyrgyzstan, and norms aimed at countering discrimination based on gender, nationality and other characteristics. In addition to the above-stated Basic Law of the Kyrgyz Republic, it establishes the economic rights of a person aimed at ensuring that an individual can meet their life needs and stay under the protection of the state. The Constitution puts these rights in a priority equal to the ideals of freedom and independent man. The provision of labour rights depends on the economic situation of the state and the needs of citizens. Therefore, the norms that consolidate the labour rights of citizens (Articles 19, 28, 42, 44 of the Constitution of the Kyrgyz Republic) should be perceived more as principles defining the basis for interaction between the state and the individual in the field of economic rights, rather than as a specific right of the individual and the corresponding obligation of the state Law of the Kyrgyz Republic..., 2021. These rights include: the right to work, the right to choose a profession and the nature of occupation, the right to labour protection and ensuring safe conditions for carrying out labour activities, and the right to receive compensation for work, not less than the subsistence minimum established by law (Article 42 of the Constitution of the Kyrgyz Republic of the drew conclusions about the economic conditionality of decisions to leave for work). It should also be noted that a fairly large number of economic rights are regulated by the norms consolidated in the Constitution of the Kyrgyz Republic, that is, the norms of laws and sub-laws. Thus, the Civil Code of the Kyrgyz Republic (1996), along with detailed disclosure of constitutional rights in the field of economic relations, also provides for special economic rights of participants in such relations. It is the protection of social and economic human rights that is one of the most important obligations of the state, its departments and civil servants, which is consolidated in Article 44 of the Constitution of the Kyrgyz Republic. In accordance with this norm, the state takes care of the professional qualification of citizens, its provision and improvement, and the economic freedom of citizens and promotes voluntary social insurance.

The main international document ensuring the labour rights of citizens to which Kyrgyzstan joined is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). The convention establishes fundamental norms concerning the functions and tasks of the state in the process of regulating legal and illegal migration. These norms include the principle of equal treatment with migrants, the need to combat illegal crossing of borders by migrants of other states, and the principle of compliance with basic human rights in the process of implementing the migration policy of the state. In addition, Kyrgyzstan ratified other international legal documents guaranteeing the protection of the rights of migrant workers: convention of the International Labour Organisation No. 97 “On Migrant Workers” of 08.06.1949, Convention of the International Labour Organisation No. 105 “On the Abolition of Forced Labour” of 25.06.1957, International Covenant on Civil and Political Rights of 16.12.1966, United Nations Convention Against Transnational Organised Crime (2000) together with the Protocol Against the Illegal Importation of Migrants by Land, Sea and Air. It was the fundamentally changed migration situation and the accession of the Kyrgyz Republic to international treaties in this area that required the development of new legislation, which has become the subject of lively discussions and research in recent years. In accordance with the obligations adopted during the ratification process, the norms of the above-mentioned international documents are implemented in the national legislation of Kyrgyzstan.

The Kyrgyz Republic has created a fairly complete regulatory framework for migration that meets international standards, primarily the Law of the Kyrgyz Republic No. 61 “On external migration” (2000). The main objectives of this law are to protect the interests and rights of migrants, control the processes of external migration, stabilise the general migration situation in Kyrgyzstan, and prevent illegal migration in the state. A special feature of this law is that it is aimed at regulating the order of entry and exit from Kyrgyzstan not only for foreign citizens, but also for residents of Kyrgyzstan (Section III). Unfortunately, this law does not contain any necessary terminology in Article 1, for

example: “temporarily residing foreign citizen”, “migration card”, “permanent residing foreign citizen”, “temporarily staying foreign citizen”. Research aimed at studying the rights of foreign citizens in Kyrgyzstan, including the right to freedom of movement and employment, is significantly limited by provisions that provide for a procedural, temporary or administrative framework. The Law of the Kyrgyz Republic No. 61 “On External Migration” is flawed in that it does not set out the procedure for guaranteeing not only material but also medical or housing security for foreign migrants and the procedure for issuing an invitation to enter the Kyrgyz Republic.

Attention should also be paid to the Law of the Kyrgyz Republic No. 4 “On External Labour Migration” (2006). In this law, the legislator characterises external labour migration as voluntary and returnable. Unfortunately, it may also be illegal, but this document does not address the problems of such external labour migration, because they can be solved using international law. The Law of the Kyrgyz Republic No. 133 “On Internal Migration” (2002) regulates public relations in the sphere of internal migration in the Kyrgyz Republic and defines the legal and organisational structure of internal migration processes and the need to provide decent living conditions at a new place of residence and/or places of residence of citizens who are internally displaced persons (Article 11). The Law of the Kyrgyz Republic is No. 1296-XII “On the Legal Status of Foreign Citizens” (1993) establishes the rules for the legal stay of foreign citizens in Kyrgyzstan. The Law of the Kyrgyz Republic No. 55 “On Preventing and Combating Human Trafficking” (2005) is also important, reflecting the norms of international treaties. In connection with the mentioned laws, which also provide additional consolidation, regulation and approval of constitutional norms, it should be added that Part 1 of Article 52 and Part 1 of Article 31 of the Constitution of the Kyrgyz Republic establishes the right of citizens to freedom of movement, independent determination of their place of residence, and the right to leave the territory of Kyrgyz Republic freely. The studies by N.Kh. Kumskova (1982) and G.V. Kumskov (2002) were devoted to issues of migration, including internal and external.

In addition, the migration legislation of Kyrgyzstan includes regulations adopted at the government level. First of all, this is: Decree of the Government of the Kyrgyz Republic No. 639 (2006); Decree of the Government of the Kyrgyz Republic No. 754 (2006). Moreover, Order of the Government of the Kyrgyz Republic No. 419-p (2017) defines a quota for economic sectors and regions for labour migration, fixing the maximum number of labour migrants arriving in the Kyrgyz Republic. The impact of illegal labour migration on the level of crime in the host states is comprehensively investigated by T.T. Shabolotov (2006).

Separately, it is worth considering the Law of the Kyrgyz Republic No. 175 “On State Guarantees for Ethnic Kyrgyz moving to the Kyrgyz Republic” (2007). The Kyrgyz who arrived in their historical homeland had to face the fact that they had no housing, no land plots, and no guaranteed employment. Therefore, their adaptation has become the first priority for the state. The first step in the field of legislation was the adoption of the Decree of the President of the Kyrgyz Republic No. 264 “On Measures to Provide Support to Ethnic Kyrgyz Returning to Their Historical Homeland” (2001). In order to implement the Decree of the Government of the Kyrgyz Republic No. 217 “On Approval of Measures to Provide Support and Assistance to Ethnic Kyrgyzstan who Returned to Their Historical Homeland and Living Abroad” (2002) (currently invalid according to the resolution of the government of the Kyrgyz Republic of 19.10.2006 No. 737), which identified the main and priority areas of support and assistance, and the list of ministries and departments involved in their implementation. The problem of refugees and immigrants among academic literature. In order to create conditions for legal and safe migration, the need for more responsible regulation of migration processes by the state was recognised, according to the National Development Strategy of the Kyrgyz Republic for 2018-2040 (2018), approved by the Decree of the President of the Kyrgyz Republic No. 221 “On the National Development Strategy of the Kyrgyz Republic for 2018-2040” (2018).

Sources of Migration Law of the Kyrgyz Republic differ in an impressive number of regulations aimed at governing migration processes in Kyrgyzstan. Their analysis showed that national legislation can hardly be called sufficiently complete and effective, despite the fact that some of these laws were subject to reform. First of all, this affected the structure of laws and bills concerning the emigration of citizens, and the immigration of stateless persons and foreigners to Kyrgyzstan. Various norms, including those concerning control over the work activities of foreigners and stateless persons, are repeated. For example, three key laws, such as the Law of the Kyrgyz Republic No. 61 “On External Migration” (2000), Law of the Kyrgyz Republic No. 4 “On External Labour Migration” (2006) and Law of the Kyrgyz Republic No. 133 “On Internal Migration” (2002), contain reference rules, a large number of declarative and generalised provisions. In particular, the laws do not de facto contain the norms necessary for effective protection of the rights of migrant citizens, and the provisions obliging the authorised body to help and protect their rights do not find real application due to the lack of practical tools to implement the external migration policy of the state, from the actual lack of resources of the authorised body. Unfortunately, the mentioned laws do not consolidate the rights of migrants to a pension and social insurance, but only refer them to the legislation of the country in which the migrant works or to the norms of international agreements.

It should also be noted that the main problem of state regulation of migration processes in Kyrgyzstan is its inefficiency. In turn, the low efficiency of a regulatory agency in the field of migration processes can occur not only due to shortcomings in legislation or migration policy, but also due to the unstable operation of such agencies. Unfortunately, the implementation of migration policy in Kyrgyzstan over the years has been characterized by frequent transfer of powers between departments, which negatively affects their productive work and the performance of basic functions, due to the lack of continuity and sufficient time to test and develop new approaches to organizing migration policy (Table 1).

Table 1. State agencies of the Kyrgyz Republic that received full powers in the migration sphere in the period 1993-2021

Year	Agency
1993	Department for Population Migration under the Ministry of Labour and Social Security of the Kyrgyz Republic
1999	State Agency on Migration and Demography under the Government of the Kyrgyz Republic
2001-2005	Department of Migration Service under the Ministry of Foreign Affairs of the Kyrgyz Republic
2005-2009	State Employment Migration Committee of the Kyrgyz Republic (later transformed into the Migration Department of the Ministry of Labour and Employment of the Kyrgyz Republic)
2010	Ministry of Labour, Migration and Youth of the Kyrgyz Republic
2011	Department of Migration of the Ministry of Foreign Affairs of the Kyrgyz Republic
2012	Ministry of Labour, Migration and Youth of the Kyrgyz Republic
2015	State Migration Service under the Government of the Kyrgyz Republic
2021	Ministry of Labour, Social Security and Migration

Source: compiled by the author

An analysis of the conceptual documents submitted for public discussion, in particular, the new Concept of migration policy of the Kyrgyz Republic for 2021-2030, approved by the Decree of the Government of the Kyrgyz Republic No. 191 "On Approval of the Concept of Migration Policy of the Kyrgyz Republic for 2021-2030" (2021), provides an opportunity to critically evaluate the state's plans for the next decade, based on which the problems of migration legislation will most likely not be solved quickly enough. It can be noted that the concept document defines an understanding of the economic and demographic problems of the Kyrgyz Republic, and limited options for choosing countries for emigration. In addition, based on the analysis of the document, it can be argued that the country's position, which is aimed exclusively at transferring labour resources to other states, remains unchanged. State regulation of migration flows is primarily aimed at the movement of the population outside of Kyrgyzstan. Despite the stated benefits for the state from external migration, such as the introduction of citizens of the Kyrgyz Republic to the global labour market, their involvement in a technologically more developed society and familiarisation with the standardisation of production processes, the Concept does not mention the issues of returning human resources to the country. It should also be noted that in the state migration policy of Kyrgyzstan, it is necessary to reflect a long-term strategy and programme of its implementation aimed at turning labour migration into a real incentive to improve the standard of living of citizens through the socio-economic growth of the Republic of Kyrgyzstan. In general, the current state of the legal system of Kyrgyzstan is characterised by significant instability, and it itself is in the process of development. The incompleteness of this process is clearly manifested in the context of migration law, which is met with significant inconsistency not only because of the different quality of sources, but also because of the uncertainty of its fundamental principles – the migration policy of the state, which makes effective law-making difficult.

Discussion

According to A. Desmond (2023), the most critical years for the migration process in Europe were 2015 and 2018, which provoked a new round of dissent within the EU. The researcher points out that migration processes in Europe were also completely frozen during the COVID-19 pandemic, and around the world, in order to stop the spread of the virus. However, in 2020, Italy and Malta used restrictions for ambiguous purposes, as similar prerequisites were observed in 2018, even before the pandemic. Thus, these two states closed their ports to persons rescued at sea, arguing that it is impossible to provide safe living conditions and the need to comply with national interests in the field of non-proliferation of the virus. The second opponents of migration processes in 2017-2020 were Poland, Hungary, and the Czech Republic, which also justified their anti-migrant policies with national interests, despite calls to maintain a unified approach to the problem of migrants in EU politics, the main feature of which can be identified as the desire for equal settlement of migrants on the territory of the entire union (Shopina *et al.*, 2020).

Attention should also be paid to the features of migration legislation of the EU member states, in particular Germany, France, and Denmark. Thus, the issues of legislative consolidation of the state's policy in the field of migration processes considered by C. Hruschka and T. Rohmann (2023), who reviewed Germany's migration policy for the period 2014-2021. The study raised the issue of the "refugee crisis", analysed the legislative decisions and initiatives of the government of the Federal Republic of Germany in the field of migration and what consequences they had directly for migrants. In turn, E. Fontanari (2022) examined the growing challenges for integrating new migrants through government programmes and services, including the Ausbildungsduldung. In the study, attention is focused on the fact that the government strives to achieve a balance between effective regulation of migration processes in Germany and full provision of other economic needs of the country, which creates contradictions related to the need to limit the flow of migrants and the need for relatively cheap working power, compared to German employees. Another study conducted by B. Yarar and Y. Karakaşoğlu (2022) was aimed at considering a more specific migration – the migration of scientists, more known as the "brain drain" to Germany from a number of disadvantaged countries. The study also indicates that autocratic and militaristic regimes provoke the outflow of specialists due to their full control of scientific activities, which negatively

affects the technological development of the countries in which such regimes operate (Yaroshenko *et al.*, 2021).

In turn, the issues of migration law in France have received attention from T. Alsamara and L. Mouaatarif (2023), who examined international instruments and national legislation of the French Republic aimed at regulating migration processes with a view to legally consolidating the right of migrants to mental health and the creation of appropriate working and living conditions that do not create additional psychological discomfort to that associated with moving to another country, forced or deliberate. Another group of researchers, consisting of A. Laubeuf and L. Sorlat (2022), emphasised that from the standpoint of French migration legislation, migrants under the age of 18 are considered children and have the right to receive the status of unaccompanied minors if they do not have a legal representative. In turn, the status of an unaccompanied minor, as indicated in the study, provides special state support until the person is 21 years old. Despite the legislative consolidation of this status, the de facto state cannot yet fully resolve the issue of migrant children on the streets of France (Spytska, 2023). Attention should also be paid to the study by M. Panizzon (2022) aimed at examining migration agreements within the EU, one of which is the French Agreement on the Joint Management of Migration Flows. The study also focuses on differences in labour markets and their legislative regulation by EU laws, which arise due to France's desire to simplify some formal aspects of migrant employment.

Migration processes in Denmark are also characterised by specific features of the legal regulation of migration processes by the state. Some of them were considered by M.R. Nielsen and S.S. Jervelund (2023), in particular, the issues of actual access to medical services for individuals migrating to Denmark. Thus, according to the results of a survey of 1,711 migrants, 21% of respondents paid attention to the following general problems related to medicine: limited access to high-quality medical care, the main factors of which were: finances – 39%, language barrier and lack of sufficient understanding of the principles of the Danish healthcare system – 37%. Moreover, it was found that access directly depends on the type of residence permit, which indicates, in the opinion of researchers, the need to soften the rules governing access to the healthcare system, which cannot be disagreed with. Another study conducted by K. Vitus and F. Jarlby (2022), was devoted to the implementation of appropriate border control and integration of immigrants into society. It is also indicated that Danish migration policy aims to reduce the flow of refugees and to effectively integrate migrants into society on an equal footing with Danish citizens, but there is a certain discrepancy in the legislative framework of immigration laws, which creates conditions for the precarious situation of arrivals and the politicisation of the Danish migration process as a whole (Kulchytskyi, 2023). Attention should also be paid to the study by S. Adamo (2022), which considered the Danish migration legal system and its integration mechanisms. Conclusions were drawn that initiatives to integrate immigrants are at the intersection of public and private law with the manifestation of characteristic features of administrative law, which is especially evident when considering specific agreements between migrants and municipalities that they accept.

It is important to note that the decisive role in the development of a new state concept in the field of regulation of migration processes in Kyrgyzstan should be occupied by European experience, especially in detail should be considered errors in migration policies and their causes: incorrect approach to the situation, erroneous determination of priorities or inconsistency of legislation. Among the positive aspects characteristic of the migration process of EU member states, it is necessary to highlight the following: a higher level of social support for migrants, a higher quality of national legislation, a state interest in including migrants in the economic life of the state, ensuring their access to the labour market (Vasechko, 2023). It will also be important to review and recognise the imperfect state of the existing system of legal regulation of migration processes in the Kyrgyz Republic.

National policy in relation to migration should become a mechanism for working with different public interests, that is, it should rely on the coordination of positions of various departments of the country, business, non-governmental organisations, and associations of emigrants themselves (Abikenov *et al.*, 2019). Exceptional significance for the development of subsequent concepts aimed at regulating migration processes is the analysis of existing problems and data collected by studying the dynamics of legislation in the field of migration, assessing the effectiveness of the established practice of applying laws and the difficulties encountered in the migration process. In turn, the analysis of migration legislation from the standpoint of the effectiveness of its application in law enforcement practice should be carried out on a regular basis, not less than once every two years, and in extreme cases – within a reasonable time.

Conclusions

In the course of studying the migration legislation of the Kyrgyz Republic, three aspects of legislative consolidation of state policy in the sphere of migration processes were studied and the features of each of them were highlighted. The constitutional aspect, the actual basis of which is the Constitution of the Kyrgyz Republic, was characterised by the consolidation of norms-principles and labour rights of citizens. The international aspect, a key international act of which is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by UN General Assembly Resolution 45/158 of 18.12.1990, played a significant role in the process of implementing international standards in national legislation Kyrgyz Republic. In turn, the consideration of the aspect of national legislation, which is based on the laws of the Kyrgyz Republic, allow fully assessing the state of affairs in the field of migration law. Thus, in the course of research, it was found that the legal basis for state regulation of migration processes in Kyrgyzstan has a number of shortcomings, especially in the aspect of national legislation. In particular, this refers to the lack of effectiveness of regulatory norms in the laws of the Kyrgyz Republic, which do not fix clear mechanisms for protecting the rights of migrant citizens outside the Kyrgyz Republic. Attention should also be paid to the lack of actual capabilities of the agency, which is authorised to regulate migration processes, and to the incorrect approach to the preparation of conceptual documents, the provisions of which are aimed at stating the existing situation. The conceptual documents also do not consider the

real causes or international factors, and gaps in national migration legislation that have led to difficulties in regulating migration processes by the state.

It should be noted that the legal basis for state regulation of migration processes in the Kyrgyz Republic is formed, but the quality and effectiveness of national legislation remains questionable and requires more careful development and reform than it was previously carried out. An open field for further research is equally all sources of Migration Law of the Kyrgyz Republic, and key political initiatives, such as the Law of the Kyrgyz Republic "On State Guarantees for Ethnic Kyrgyz People Moving to the Kyrgyz Republic" dated 26.11.2007 No. 175. The research conducted in these areas will help to more clearly characterise the historical and modern experience of state regulation of migration processes in Kyrgyzstan.

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Conflict of interest

None.

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Правові основи державного регулювання міграційних процесів у Киргизькій Республіці у контексті глобальних змін

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Анотація. Актуальність цього дослідження полягає у необхідності детально розглянути правові основи державного регулювання процесів міграції в Киргизькій Республіці у зв’язку з можливим розвитком міграційної кризи у країнах Близького Сходу та Європи. Мета дослідження – вивчити законодавство Киргизької Республіки щодо повного та належного закріплення правових норм, спрямованих на регулювання міграції відповідно до міграційної політики держави, заснованої на національних інтересах, міжнародних стандартах та сучасних міграційних тенденціях. Для проведення дослідження було використано такі загальнонаукові та спеціальні методи: формально-юридичний аналіз, догматичний метод, синтез, дедукція та узагальнення. У процесі дослідження було розглянуто базу національного законодавства у сфері регулювання міграційних процесів. Відповідно до ключових елементів також було виділено три аспекти законодавчого регулювання міграційних процесів у Киргизькій Республіці. До них були віднесені такі аспекти, як: конституційне, міжнародне та національне законодавство. За результатами проведеного дослідження визначено, що нині правове регулювання міграційних процесів у Киргизькій Республіці, з урахуванням великого масиву нормативно-правових джерел, перебуває у стадії розробки та реформування. Деякі законодавчі акти не містять правового закріплення державного захисту прав громадян Киргизької Республіки, які перебувають за межами держави. Механізми забезпечення такої підтримки для громадян-мігрантів також не було виявлено. Були зроблені висновки, що слід приділити увагу розробці продуманої міграційної політики держави, оскільки від політичних рішень залежить подальший вектор розвитку міграційного законодавства Киргизької Республіки

Ключові слова: законодавство; декларація про працю; виїзд на заробітки; міжнародні документи; політичні рішення

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Legal basis and main technologies of socio-psychological work with vulnerable categories of the population in the community

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Abstract. The war in Ukraine has led to an increase in the need for social assistance among vulnerable populations, which requires strengthening the capacity of social services to respond to new challenges. The purpose of this study is to examine the legal and technological framework for wartime assistance and to demonstrate the effectiveness of modern methods through theoretical and empirical analysis. Data collection and analysis were conducted in compliance with ethical and legal standards for social research. Currently, Ukrainian policy makes it possible to support models such as the proposed Integrated Social Services approach. However, the findings of the study indicate a potential need for legal/regulatory reforms to further strengthen the capacity to respond to crisis situations. The results confirm that the implemented interventions successfully address the problems of displaced persons, veterans, most-at-risk families, etc. Individual case management and group social and psychological trainings contribute to capacity development, and the model of integrated services allows for quick resolution of acute problems. Comparative evaluations show that the integrated system is superior to individual methods in quickly addressing crisis situations. However, new groups that fall outside the scope of current legislation, such as victims of domestic violence, may require mandatory expansion of eligibility criteria. Laws could also include standards for interagency coordination to address fragmentation. This urgent

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relevance highlights how robust legal/ethical foundations uphold assistance models in turmoil. It was also concluded that the implementation of legal reforms that would create a unified system of cooperation could mitigate these problems. In particular, legislation could formalise requirements such as data and information sharing between service providers, common case management procedures, common reporting standards and interdisciplinary partnerships. The practical significance of the study lies in the possibility of using the results of the problem analysis to create accessible mechanisms to improve the quality of support for vulnerable demographic groups. Enshrining access to care as an inalienable guarantee creates an ecosystem that is resilient to modern threats

Keywords: social assistance; less protected categories of people; human rights; negative social factors; legal frameworks

Introduction

In the modern conditions of the development of Ukrainian society, strict technological requirements are placed on social work and assistance. The most relevant today is the integration of all social forms and directions of social work into a single system that will contribute to effective changes and correspond to the progressive development of society and the individual in it. Social work should be understood as an integrated, universal type of activity aimed at satisfying the personal interests and needs of vulnerable sections of the population guaranteed by society (Semigina, 2020).

P. Smith *et al.* (2022) note that every year the number of people in need of social assistance increases, especially during the war. Also, the researchers note that thanks to radical reforms of the power system, which involves the transfer of powers and resources from the state level to the local level, social work is aimed at more effectively solving social problems and meeting the needs of representatives of various social groups. Analysing the experience of Canadian, American, and British public organizations, V. Kurylo *et al.* (2019) found that there are a number of problems in the provision of social and psychological services in Ukrainian communities that require immediate resolution. For example, budget legislation must comply with social principles, methodical provision of social work institutes in any community is the basis for providing high-quality social and psychological services, creation of a single register of recipients of social services to ensure the incorruptibility of public self-government bodies, creation of the latest models of social service systems (Polishchuk, 2020).

Formalizing the universal right to social services will significantly strengthen Ukraine's policy framework for supporting vulnerable groups. Enshrining this new right in law establishes basic standards, scope and procedures for public assistance, creating consistent expectations for citizens across the country. This could take the form of a broader "right to social security" amendment covering everything from health care to housing assistance to counseling services (Behrendt & Anh Nguyen, 2018). At the operational level, the law would require the maintenance of necessary infrastructure and human resources. For example, a requirement to maintain adequate staffing levels for social workers, shelters, and assistance programs. This proactive stance will allow Ukraine to have a specialized crisis response capacity that can quickly expand services in the event of disasters.

M. Hensmans *et al.* (2023) believe, that fiscally, budgets should allocate permanent funding solely to sustain this ecosystem of social services and meet local needs. Targeted pools calculated by rigid formulas prevent diversion of resources. In essence, legal law enshrines social services as an inherent civil guarantee, forcing the state to assist and provide for the vulnerable through regulation. These services are transformed from discretionary charitable policies into unquestionable legal duties bound by strict legislative accountability. As a result, societal resilience is enhanced and at-risk populations become less vulnerable to crises of all kinds.

N. Nazar (2022) believes that modern social technologies should be directed to help overcome life's difficulties. Modern social problems are relevant for many people, therefore, using methods of prevention of prevention of social risks and difficult life circumstances, mastering the skills of getting out of crisis situations, self-determination of circumstances in which social assistance is needed, clients of social services attract their strengths and resources for development solving problematic issues related to life activities. After all, a person's awareness that he can and should ask for help facilitates the process of establishing cooperation between vulnerable categories of the population and representatives of the provision of social and psychological services of various professional groups in the community (Yara *et al.*, 2021).

For a long time, social work in Ukraine was aimed at supporting and preserving optimal working capacity and social activity of people with disabilities (Rima *et al.*, 2020). Nowadays, the attention should be paid to the field of social work in Ukraine as developing. Thorough scientific research and practical experience for the implementation of the latest technologies are not enough for this branch to effectively fulfil its functional responsibilities. E. Dubois *et al.* (2022) define social work as performing public health care services that focus on the mental health of citizens and related adjustment disorders. Because according to the researcher, only a healthy society can form a healthy personality. In social work in Canada, much attention is paid to cultural and situational factors: ethnic origin, race, religion, gender, age, social class and position in society, sexual orientation (Khan, 2023).

Instead, M. de Chesnay & B. Anderson (2015) are convinced that in the coming years, individual psychotherapy will replace social work from social services. Because most social workers use psychological methods to provide effective care, thus losing their original meaning. However, there are types of social services that cannot be solved by psychotherapy. That is why the field of social work should pay attention to the restoration of its role as a social assistant and contribute to the improvement of society. Therefore, the purpose of this study is the development and implementation of the latest technologies for the organization of social work, as an organized, regulated subjectively determined influence on individuals to activate the internal potential for self-development of socially vulnerable population groups.

Materials and methods

The following theoretical methods were used during the research: analysis, synthesis, specification of scientific and methodological literature on psychology, sociology, jurisprudence, philosophy. In the empirical part of the experiment,

such methods were used: semi-structured interview, observation, socio-psychological training. 30 people from among the vulnerable population of Khmelnytskyi, Khmelnytskyi territorial community participated in the experiment. After receiving consent from each experiment participant for the processing of personal data, anamnesis was collected and assigned to a low-security category of the population: internally displaced persons (30 people), of which 5 were children, 2 were victims of violence, families who found themselves in difficult life circumstances – 5, persons with special needs – 5, unemployed – 10, pensioners – 8. The study was conducted from August to December 2022.

A group of 10 people was formed for each of the methods. 2 innovative technologies were applied to the participants of the experiment, which, as it became clear from the analysis of the scientific literature, are currently the main methods of social work with a vulnerable population: the method of individual social work (Ravalier *et al.,* 2023) and the method of group social work (Neamţu & Faludi, 2021) and the model of the organization of social work "Integrated social services" (Horishna, 2019). The effectiveness of their implementation was determined and compared with the experience of using the "Integrated Social Services" social work organization model. The Casework method is a joint activity of a social worker and a user of social services in conditions of limited functioning of the latter. It is aimed at solving social, psychological and personal problems of the client at the place of residence, by address. A social services specialist can cooperate using this method with families who find themselves in difficult life circumstances, persons with special needs.

Social work with a case takes place in 5 stages: diagnostic – where a specialist, in accordance with normative documentation, assesses the state of living conditions of a family that finds itself in difficult life circumstances and persons who have special needs (conditions of their maintenance). The second stage is an assessment of the nature of the problem and the type of assistance (economic, psychological, medical, legal), the third is the development of a plan and provision of the necessary services; the fourth is the final stage of assistance; the fifth is an assessment of the success of actions. It should be noted that the third stage can last for years, until a person fully solves his problems. The method of group social work is intended for the development of spiritual and physical forces through the mutual exchange of group experience. The socio-psychological training in which the participants of the experiment took part was aimed at overcoming anxiety states, finding a resource and forming a support during the war in order to change the functioning of the group members.

Social work in this case is directed to the group as a whole and to each of its members in particular. The model of integrated social services for Ukrainian communities was created to ensure the social well-being of residents of territorial communities. The main concept of the model consists in the comprehensive provision of a wide range of social services that are concentrated in one place, taking into account gender, age, physical and other characteristics of vulnerable categories of the population. An individual can receive social services guaranteed by the state in a short time. The peculiarity of this approach is to treat the recipient of social services in such a way that the individual adapts to the community in which he lives as quickly as possible (Mialkovska *et al.,* 2023). After the implementation of the relevant services, a comparative analysis of the effectiveness of providing social services was conducted using individual and group methods and the "Integrated Social Services" model (Tokareva, 2019). A survey was administered to recipients of the services in each group, asking them to rate their satisfaction on a 5-point Likert scale (from 0.1 = very dissatisfied to 0.5 = very satisfied). After monitoring the quality of the provision of social services, the theoretical conclusions and practical results were clarified using mathematical statistics and graphical representation of the results. It should be noted that this study is rather a cross-section of data for a certain period, and it is expected to be repeated in the future. The survey was conducted in accordance with the principles set out in the Helsinki Declaration (1975). All persons who took part in the survey were informed about measures to guarantee their anonymity. They were informed about the purpose of the study, the use of the data they provided and obtained during the study, and the risks involved.

Results

The model of providing social services depicted in Table 1 strengthens the role of local self-government in the organization of social services, which allows creating an effective system of technologies for social and psychological work at the local community level. The implementation of such technology in social work brings the sphere of social services to a higher quality level. Starting with registration and early identification of families and persons in need of social assistance, ending with timely provision of targeted social assistance. Socially vulnerable categories of the population have a high probability of increasing social problems in unstable times in society: economic crises, natural or man-made disasters, wars. The most vulnerable are pensioners, people with special needs, large families, orphans, unemployed internally displaced persons, the poor, homeless women, addicts of psychoactive substances – such population groups require increased state measures to solve the issue of their integration into society (Trubavina *et al.,* 2021).

Table 1. Model of "Integrated social services"

Parameters	Features of the implementation of the model
Purpose of activity	Addressing of social services
Recipients of social services and their role	internally displaced persons, families who find themselves in difficult life circumstances, disabled persons, unemployed persons, persons with addictions
Problems with which the model works	Lack of housing and basic necessities, failure of parents or guardians to fulfil their duties, loss of documents, unemployment, disability
Action strategy	Identifying existing problems and mobilizing resources to solve them
Tactics of change	"Single window" policy, mediation
Liaison with local authorities	Cooperation with employers and funding entities

Source: compiled by the authors based on U. Tokareva (2019)

It is important that the provision of social services is underpinned by a human rights-based legal framework, especially in times of crisis or war when needs are heightened. However, current Ukrainian legal definitions defining eligibility for social assistance cannot fully cover all groups made vulnerable by contemporary threats (Taran *et al.*, 2023). For example, while displaced persons, veterans, the unemployed, pensioners and persons with disabilities are covered by the law, there may be gaps in the clear definition of victims of violence and military families (The right to state social…, 2005). Expanding legislation to designate these groups could strengthen response capacity. Possible mechanisms include amending existing laws that list vulnerable categories or introducing new directives that specifically target contemporary demographic groups at risk. For example, legislation defining eligibility criteria for social support programs could include special provisions for "internally displaced persons seeking asylum in armed conflict zones" and "families exposed to domestic violence or abuse during active hostilities". This expansion of legislation incorporates modern aspects into the formal social assistance system. It allows institutions such as shelters, employment centers and community outreach programs to tap into special channels of assistance for victims of violence and military families when needed. The standardization of these new covered groups also introduces responsibility for addressing the unique needs of each.

The decentralization reform made it possible to expand the range of activities of social service specialists and placed on them a certain legal responsibility for the patronage of socially vulnerable segments of the population (Decentralization reform, 2014). However, it enabled specialists to develop, to cooperate with district inspectors, doctors, heads of neighbourhood committees, and psychologists. Social service specialists are developing technologies that will act with high efficiency in solving population problems. As a result, this would provide an opportunity to prevent the emergence of difficult life circumstances for some families, to provide patronage under proper conditions for the maintenance and upbringing of children, and to prevent the removal of children from disadvantaged families.

Implementation of the method of individual social work took place in several stages. The first is getting to know each other, establishing a trusting relationship with research participants, diagnosing the needs of a family or an individual by drawing up an act of inspection of living conditions. During a semi-structured interview, the root cause of the problem is investigated and the necessary package of documents or an application for their creation is collected. If necessary, referral to narrow specialists: psychologist, doctors, lawyer. At the second stage of social work, the set of skills of the people who participated in the research was analysed. Meetings and conversations took place with each family individually once a week. Diagnosing the client's personal problems is a long-term process, but it will fully help to assess his capabilities, especially since during the following conversations the client opens up and the consultant can get even more facts about the problem and help more effectively. At the third stage, there was a direct solution to the problem: finding a job, looking for housing and moving, involving a psychologist in order to establish parent-child relations, restoring documents for receiving financial assistance. All this time, the social worker accompanied the clients and encouraged them to socialize based on their strengths. The final stage of the relationship between the client and the social worker within the framework of the method of individual social assistance begins with the complete resolution of the former's problems. During the last session, a final semi-structured interview was conducted in which the quality of service provision by the employee and the effectiveness of problem solving were evaluated.

The next step of the experimental verification of the introduction of innovative methods in social work was the conduct of socio-psychological training. Implementation of the method of group social work also takes place in several stages. At the first, there was involvement of group members, formation of cohesion, difficulties in sharing experiences and feelings with group members, there was no sense of value of the group and its members. Anxiety, isolation, frustration, threat from the powerful are signs of group members at the initial stage. The group is suitable for those who seek a safe, comfortable atmosphere, without violating personal boundaries, where knowledge and understanding of the feelings and emotions of the group members is valuable and important. At the second stage, the coach of the socio-psychological group, having mastered the group process, stimulated the imagination of the participants, developing their abilities for social interaction. During this stage, the participants showed their individuality, competed, became leaders, that is, they learned to show their personality in society. This process served as a transition to the third stage: rationing. Roles were distributed among group members, subgroups were formed, and group norms appeared. It was at the 4th stage that the process of fulfilling the set goals began, each of the group members focused not on the process, but on the goal with which they came. The termination of the group's work took place for some time, as some members of the group felt the need to continue the interaction.

On the basis of the implemented state program "Integrated social services", a survey was conducted among the formed sample regarding the effectiveness of service provision (Models of integrated…, 2020). The model of integrated social services was developed for the purpose of joint planning and coordination of coordination actions and establishing the interaction of various units in the provision of services to privileged categories. Integration takes place through the formation of optimal connections between specialists in the social sphere, with their subsequent unification into a complete system of social assistance (Tokareva, 2019). Since the model is designed for a quick and high-quality solution to social problems of vulnerable categories of the population, coordination work on the provision of social services was carried out. So, the social worker is faced with the task of quickly assessing the client's problem and redirecting it to the next specialist who can solve it or redirect it to another specialist.

Socio-psychological work with families who found themselves in difficult life circumstances was aimed at creating conditions for the safe and harmonious development of children, strengthening family relationships, preventing the disintegration of families and the removal of children from families. First of all, a set of classes aimed at the development of the child's social and emotional sphere, parent trainings where, together with a specialist, parents receive knowledge and skills to overcome and mitigate life's difficulties were held with the children. The vast majority of parents from families who have found themselves in difficult

life circumstances – candidates for deprivation of parental rights, must understand that help exists and how to get it. Therefore, they are under the constant support of specialists who visit children at home and observe their development, provide advice on education. By cooperating with the children's service, medical and educational institutions, comprehensive assistance is provided to such families.

The problem of vagrancy, begging and various kinds of addictions need an immediate solution. It is obvious that with the loss of housing, a person loses the opportunity to exercise one of his civil rights – the right to work. In case of loss of housing with all property and documents, a person is deprived of the opportunity to receive all types of social services: payments, pensions, registration at the employment center, medical care, legal work. In addition, the lifestyle these people lead poses a risk to themselves and those around them. Therefore, solving the problematic issue of the homeless, vagrants, patients with alcoholism and drug addiction, persons released from prisons is an important process of social transformation in any community. Therefore, the referral of unemployed persons to the employment center made it possible to resolve the issue of temporary employment of the unemployed and employment. And social assistance of public, religious and volunteer organizations contributed to the rehabilitation of persons with various kinds of addictions.

Large-scale work is also being carried out to study the needs of internally displaced persons. Children and their parents were taken under socio-psychological support and provided with psychological support, rehabilitation, clothes, shoes, material assistance, housing and employment. By cooperating with volunteer foundations and public organizations, it became possible to resettle families in modular houses, hostels of the social sector and privately owned houses that citizens give to the needs of the displaced. Preventive, therapeutic, rehabilitative social work with victims of violence is mandatory. Cooperating with social hotels, crisis centers, and social services, specialists conduct face-to-face or telephone consultations with people affected by violence, psychological relief training, and therapy.

The main areas of work with pensioners were aimed at identifying persons in need of social care at home or in special institutions. Therefore, during the conducted raids, specialists collected the necessary information to meet their needs, and also conducted explanatory work with relatives of the elderly regarding the biosocial essence of aging as a demographic process with all its consequences, with problems of loneliness and adaptation to old age, scope and opportunities labor, intellectual, creative activity. Instructed on the basics of caring for helpless old people with low socio-psychological and moral-ethical problems. The involvement of a specialist in the field of gerontology, who applies a number of psychotherapeutic methods, contributed to overcoming the syndrome of premature aging, solving family and household problems.

Specialists of social and psychological services perform the duties assigned to them in accordance with the requirements of state standards of social services and the challenges of today. Serving new categories of the population requires constant expansion of powers, improvement of competence and quality of provision of social services by specialists (Resolution of Cabinet of Ministers of Ukraine No. 1124…, 2023). The results of the survey among recipients of social and psychological services regarding the quality of the provision of these services according to the model of "Integrated social services" are presented in Figure 1.

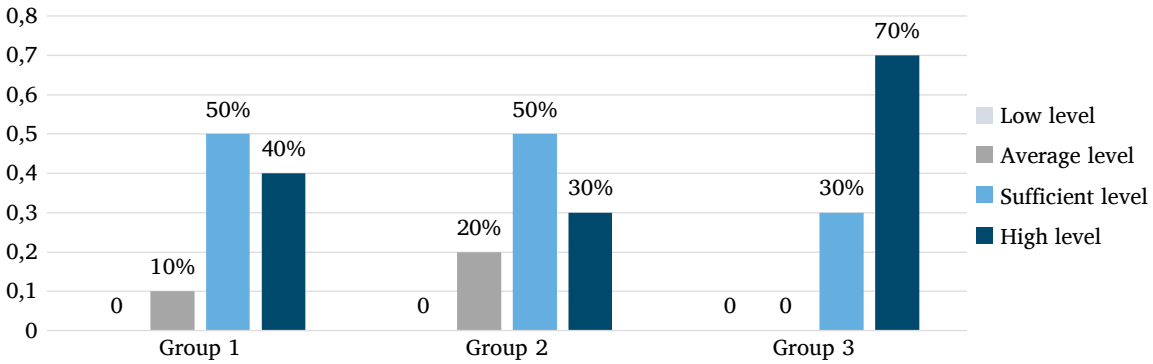

Figure 1. Results of a survey on the quality of the implementation of innovative technologies of social and psychological work with vulnerable categories of the population
Note: Group 1 – those in which the method of individual social work was applied; Group 2 – application of the method of group social work; Group 3 – approval of the author's model of "Integrated social services"
Source: compiled by the authors

So, as can be seen in Figure 1, all methods have shown their effectiveness in working with socially vulnerable categories of the population. The "Integrated social services" model has a slight gap in the indicators of the quality of the provision of social services. As it turned out during the survey of clients, the quality of the provision of socio-psychological services using the model is higher: internally displaced persons solved their problematic issues within a week. However, the first two groups resolved their issues later, but first of all they received psychological support, restored a sense of security, support and trust. Thanks to the results published in Figure 1, it can be concluded that the technologies of social and psychological work perform the tasks assigned to them.

The "Integrated Social Services" model demonstrated superior results because it provides comprehensive, coordinated support by linking recipients to the required specialists through a single point of access. The social worker acts as case manager to promptly assess needs and refer clients to address each issue specifically, from psychological

assistance to employment to paperwork. By streamlining access and leveraging expertise across domains, acute problems can be tackled rapidly. In contrast, the individual and group methods focused more on equipping clients with coping skills over a longer timeframe. While also valuable, they did not resolve immediate practical hurdles as quickly. The integrated model's ability to swiftly mobilize a customized, multi-pronged response explains its higher effectiveness ratings in the study. Formalizing this approach through policy and legislation can strengthen crisis response capacities.

Taking into account the relevance of social services today, the training of specialists in the social and psychological sphere in order to improve the lives of citizens should be at the highest level. A social worker should act as a coordinator of social support, perform a key role as a provider of social services. Therefore, the network of social services in Ukraine is undergoing a process of modernization in accordance with the requirements of the times and the needs of society. This study proved that the transition to the optimal model of providing social services will help in solving a number of problems that affect the lives of socially vulnerable categories of the population.

Discussion

Techniques, methods and influences that are used to achieve the set goals of social development and are technologies of social and psychological work with vulnerable categories of the population. Increased emphasis on social assistance and support in a crisis situation in society becomes especially important. Most often, when contacting a social worker, a person has more than one problem. The complexity of the client's problem, the complexity of transformations, the need to achieve an effective result within a limited time frame requires the development of innovative technologies from social work. Such diversity of social assistance requires specific, narrowly directed, practice-oriented models of social work. Therefore, increasing the emphasis on targeted assistance will allow to objectively assess the needs of the family and fulfil all functions of social protection.

For example, the problem-solving model, which is purely applied in nature and is used to solve the problems of individuals, groups, and communities, is quite widespread in the USA (Beddoe, 2020). The model is focused on the elimination of negative factors through awareness of the root cause of one's problem, the activation of personal resources through the analysis of alternatives, increasing the level of motivation to implement the most effective way of solving specific tasks. A social worker uses a basic technique in working with a client – "partnership relations" in which he acts as a consultant, teacher, educator (Spytska, 2023). A similar method was used in the course of this study – the method of individual social work. The effectiveness of these methods lies in the appearance in the life of a person from among the vulnerable population of a mentor who takes care of the client's life problems.

Another effective model of working with a vulnerable population in the community is the task-centred model (Beddoe, 2020). The concept of this model consists in the development of a planned mechanism for the social worker's intervention in the client's problem. To do this, the specialist transforms the client's problematic situation into tasks that will be easier for him to cope with, and such a step-by-step instruction will lead to a solution to the request of the recipient of social services. The advantage of this model in the fight against social problems is the transformation of the client's awareness of his problem. By breaking it down into small tasks that are easier to deal with, a person will no longer be so intimidated by the scale of his problem.

The crisis intervention model works well in dealing with psychological crises, stress and emotional strain (Beddoe, 2020). Just as in the study of this article, during the application of the group social work method, the specialist in crisis intervention works on reducing the damage from an acute psychological and emotional crisis in order to build stress resistance. The specialist must understand the peculiarities of the deep course of the crisis. A person, facing various obstacles in his life, gets injured. Therefore, a specialist who knows the model of crisis intervention should help the client overcome these obstacles and face stressful situations in a state of acute or chronic crisis. This is exactly what the participants of the social-psychological training in the experiment conducted within the framework of this study were engaged in. And as the results of the quality of the introduction of the method of group social work showed, 30% of the respondents improved their standard of living.

After analysing the regulatory documentation regarding the definition of needs and the implementation of social and psychological patronage in Ukraine, it turned out that some technologies are cumbersome and do not ensure the full fulfilment of the tasks set for social work by society (Polishchuk, 2020). The methods, criteria and indicators characterizing the effectiveness of social services and satisfaction on the part of recipients are insufficiently developed. The coordination network of institutions among themselves is imperfect, as well as the level of professionalism of social workers. Social technologies play an important role in the social work of a specialist, for whom it is important to determine the priority directions of his work, to outline effective ways and forms of solving people's social problems, to coordinate the activities of various social institutions, to take into account the features of the socio-economic development of the state and to create conditions for raising the level life of citizens (Rima *et al.*, 2021). Therefore, the creation of innovative models of providing social services is a promising direction for improving the functioning of the social service system.

O. Polyanychko and A. Kyrylyuk (2020) describe in their study the experience of implementing social work technologies at the place of residence and claim that such a system is the key to maintaining a healthy microsocial climate, gives positive results and deserves to be followed. Confirmation of this fact is demonstrated by the indicators of the quality of the implementation of the method of individual social work in this study. Targeted social assistance is an effective technology for social and psychological work with the disabled, pensioners, and large families. L. Beddoe (2020) implemented in his practice the model of providing social services based on the "single window" principle. The primary tasks of the social services model are the simplification of the procedure for obtaining services, the introduction of automated document flow. According to the results of the monitoring study of the implementation of the social service model based on the "single window" principle, a survey was conducted among the recipients of social services, according to which 98% of the respondents improved their emotional, psychological, spiritual, creative and intellectual state.

The study of the quality of the model of providing social services based on the "single window" principle showed the advantages of forming a single database based on the social passports of vulnerable population groups; reduction of instances; reduction of the package of documents, which shortens the time for decision-making and speeds up the possibility of receiving social services from the moment of application; the possibility of reaching a larger number of population groups as a result of applying to one service; consideration of the problem as a whole and each member separately. That is, improving the quality of providing social services based on the "single window" principle, due to accessibility, timeliness, comprehensiveness, addressability and compliance with needs, flexibility, and preventive measures.

The structural and functional model of socio-psychological work with vulnerable categories of the population should become a practical embodiment of any territorial community. However, as evidenced by A. Seifert *et al.* (2019), a universal model of providing social services that will be developed for all segments of the population does not exist. The authors emphasize that each community should form its own model of providing social services, taking into account the principle of expediency of financial and human resources. When developing technologies for social and psychological work, it is possible to use the experience of Western countries (Great Britain, Germany, the USA) in which the state only takes responsibility for creating favourable conditions for the provision of social services, and business and civil society independently solve social problems of vulnerable groups population (Vulnerable and at-risk…, 2022). While in Ukraine the guarantor of the provision of social services is the state, in Great Britain, Germany and the USA the state partially provides financing for social services, public organizations (Kuran *et al.,* 2020). In Ukraine, the state regulates and finances the system of providing social services in its entirety. However, recently there have been certain shifts in the involvement of public organizations and private enterprises in the provision of social services (Polishchuk, 2020).

For several decades, in international practice, the content of social work has been reduced to the implementation of targeted qualified care based on the principle of prolonged care (Gabel, 2019). That is, the fact that the specialist independently visits the client at the place of residence allows to obtain comprehensive information about the specifics of people's needs and problems and to provide qualified assistance at the local level within the community, where the social representative is perceived as "help" and not as "punishment". Social work in these countries at the level of the territorial community is aimed at meeting the needs and solving the problems of vulnerable categories of the population through the involvement of a qualified specialist, cooperation between external institutions and community members, assessment of needs for social services, their planning and ordering, monitoring and evaluation the quality of these services.

In Great Britain, Canada, Germany, the USA, France, and Switzerland, community and information centers are active in communities, which cooperate with various categories of the population to organize education, leisure, and health improvement (Torpan *et al.,* 2021). Also, since the 1980s, centers of community education have proven themselves well in Great Britain, which work with the aim of socializing teenagers and young people through the organization and holding of various social and cultural events (Kamara *et al.,* 2019). In France, cultural and leisure centers are actively functioning, the activities of which are aimed at the self-development of young people through creativity (Beddoe, 2020). In Denmark, Poland, the USA, and Sweden, a variety of interest clubs and interest groups for different segments of the population and age groups have been created to meet musical, artistic, behavioral, sports, leisure, and educational needs and interests (Seifert *et al.,* 2019).

The study identified shortcomings in the way different agencies providing social services currently interact and concluded that the overall coordination network is sub-optimal and fragmented. However, legal reforms that establish a unified system of cooperation could alleviate these problems. Specifically, legislation can formalize requirements such as data and information sharing among providers, joint case management procedures, uniform reporting standards, and cross-directional partnerships. For example, laws should require shelters to share victim profiles with their assigned social workers or hold monthly coordination meetings between social service agencies in each neighbourhood.

Common minimum requirements for cooperation would increase consistency, transparency, and integration between parties. Common protocols will reduce duplication, utilize complete victim information, and harmonize responses to provide comprehensive support. In addition, collaborative laws can establish ground rules that oblige ethical behavior, such as maintaining confidentiality when sharing data. They can also create joint governance structures between agencies, such as interagency councils to coordinate high-level strategic responses. In essence, codified collaboration mandates alleviate identified logistical bottlenecks. They eliminate friction between disparate organizations through defined legal duties of alignment and collaboration. The result is an ecosystem of mutually accountable institutions that are more responsive to emerging social challenges through improved coordination. The process of Ukraine's accession to the European Union involves the introduction of European standards and approaches for social work with different layers of the population, because the level of social status of a country's citizen is the face of the state.

Conclusions

The introduction of innovative forms of socio-psychological work with vulnerable categories of the population has shown its effectiveness in the conditions of the territorial community. A monitoring study of the quality of the provision of social services using the method of individual social work, group social work and the "Integrated Social Services" model showed that all technologies are effective in solving problematic issues of vulnerable categories of the population. However, the "Integrated social services" model, as shown by the survey of recipients of these services, better coped with solving the problem situations of vulnerable categories of the population. After analysing the responses of clients, it became clear that the author's model helped the participants of the experiment to overcome their life difficulties in the shortest possible time. Using the services of one or another specialist referred by the social worker and following all his instructions. Instead, the first two methods were aimed at developing skills that will help overcome obstacles in crisis situations.

The demonstrated effectiveness of innovative social work methods suggests they comply with existing legal frameworks. Their successful implementation supports

current policy and legislation enabling intervention models like "Integrated Social Services". However, the emergence of new vulnerable groups implies potential need to expand legal definitions and eligibility criteria for social assistance. Veterans and displaced persons may require explicit legal recognition to ensure support access. Legal reforms could also mandate standards for inter-agency coordination and cooperation in social service delivery, addressing suboptimal fragmentation. As well as minimum benchmarks for capabilities and capacity. Quality assurance mechanisms grounded in legislation may further reinforce monitoring and evaluation rigor in this sector. Binding reviews to strict statutory requirements can enable accountability. Accessibility of services could be cemented by legally codifying a "right to social welfare" for citizens. This obligates the state to deliver assistance through regulation, budget assignments, and infrastructure.

The emergence of new, poorly protected categories of the population among the military and internally displaced persons who need social protection creates a perspective for further research. It consists in the development of additional mechanisms, measures to reduce the number of persons of vulnerable categories of the population, as well as improvement of the methodology of assessment and monitoring of the quality of the work of the Centers for the provision of social services. The main strategy of which is to ensure the availability of social services for the population.

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Conflict of interest

None.

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Правові засади та основні технології соціально-психологічної роботи з вразливими категоріями населення в громаді

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Анотація. Війна в Україні призвела до зростання потреби в соціальній допомозі серед вразливих верств населення, що вимагає посилення спроможності соціальних служб до реагування на нові виклики. Мета цього дослідження – дослідити правові та технологічні засади надання допомоги в умовах воєнного часу та продемонструвати ефективність сучасних методів шляхом теоретичного та емпіричного аналізу. Збір та аналіз даних проводився з дотриманням етичних та правових стандартів проведення соціальних досліджень. Наразі українська політика дозволяє підтримувати такі моделі, як запропонований підхід «Інтегровані соціальні послуги». Однак результати дослідження вказують на потенційну потребу в правових/регуляторних реформах для подальшого посилення спроможності реагування на кризові ситуації. Результати підтверджують, що впроваджені інтервенції успішно вирішують проблеми внутрішньо переміщених осіб, ветеранів, сімей з груп ризику тощо. Індивідуальний кейс-менеджмент та групові соціально-психологічні тренінги сприяють розвитку потенціалу, а модель інтегрованих послуг дозволяє швидко вирішувати гострі проблеми. Порівняльні оцінки показують, що інтегрована система перевершує окремі методи у швидкому вирішенні кризових ситуацій. Однак нові групи, які випадають з-під дії чинного законодавства, такі як жертви домашнього насильства, можуть потребувати обов'язкового розширення критеріїв прийнятності. Закони також можуть включати стандарти міжвідомчої координації для подолання фрагментації. Ця нагальна потреба підкреслює, наскільки міцні правові та етичні засади підтримують моделі допомоги в умовах нестабільності. Також було зроблено висновок, що реалізація правових реформ, які б створили єдину систему співпраці, могла б пом'якшити ці проблеми. Зокрема, законодавство могло б формалізувати такі вимоги, як обмін даними та інформацією між надавачами послуг, спільні процедури ведення справ, загальні стандарти звітності та міждисциплінарні партнерства. Практичне значення дослідження полягає можливості використовувати результати аналізу проблеми у створенні доступних механізмів для покращення якості підтримки вразливих демографічних груп. Закріплення доступу до допомоги як невід'ємної гарантії створює екосистему, стійку до сучасних загроз

Ключові слова: соціальна допомога; найменш захищені категорії населення; права людини; негативні соціальні чинники; правові засади

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National customs legislation adaptation to EU requirements in the context of eastern partnership policy development

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Abstract. The research relevance is determined by the need to assess Georgia's trade relations and customs activities in terms of their compliance with European requirements. The study aims to identify areas in the field of customs control that require further legislative regulation and harmonisation with EU legislation. The study employed the following research methods: analysis of statistical data on trade activity; comparison – to compare indicators of unrealised export potential between countries; graphical – to display the results; and generalisation – to summarise the information in line with EU requirements. The study determined the dynamics of Georgia's trade and economic activities with the EU; assessed the use of export potential with different EU countries; and substantiated the effectiveness and efficiency of Georgia's customs control reforms. The need to adapt the customs legislation to the common EU requirements is proved and the directions of specific measures for further improvement of customs activities are identified: application of transit (improvements to the guarantee management system are needed); control of sanctioned goods at the border (to speed up the EU's response to specific requests); risk management system (to establish systematic internal and interagency information exchange); tax authorities (reorganisation and increase of profitability); customs protection of intellectual property rights. This will help bring Georgia's economy closer to the EU economic area. The expediency of improving the quality of education and increasing public spending in this area has been substantiated, which will contribute to the professionalism of economic reforms. The results and conclusions are of practical importance for the Government in the development of customs policy and customs authorities in the implementation of customs procedures

Keywords: trade and economic relations; harmonisation; taxes; transit; trade; quality of education

Introduction

The choice of the European course of economic development by Georgia after gaining independence necessitated the expansion of the country's trade with the EU. The key role in the success of trade and economic relations is the efficient functioning and control of the country's export and import activities, which are implemented through the customs system. The main vectors for the customs policy and legislation in this area should be implemented in line with the EU experience and requirements. In this regard, there is an increasing need to reform the customs system and adapt customs legislation to EU standards, which can identify shortcomings in legal regulation. Due to the inconsistency of legal regulation mechanisms with the European standards applied in the country, difficulties arise in the implementation of customs procedures. These factors impede the harmonisation of customs procedures with the EU and Georgia's accession to the EU's single customs area. Implementation of Georgia's customs policy in line with the EU will help address the current challenges of the global economy, protect the domestic market from competition and stimulate the country's exports.

In the context of modern globalisation, various EU initiatives are relevant, one of which is the Eastern Partnership (EaP), whose policy aims to deepen and strengthen relations between the EU and its eastern neighbourhood (Ivanov *et al.*, 2023). If the EaP countries carry out significant reforms, their integration with the EU will deepen significantly. The peculiarities of the socio-economic development of the EaP countries are revealed by R. Putkaradze's (2021) work, emphasising that further reforms will allow Georgia to accelerate the process of trade and economic integration with the EU through cooperation.

The EU's approaches to forming economic relations with other countries, in particular in the EaP region, were studied by M. Rakhimova *et al.* (2023), who analysed the effectiveness of EU initiatives in various sectors of the economy, explored the possibility of their implementation and potential risks that may arise. The impact of the Deep and Comprehensive Free Trade Area (DCFTA) on the European integration of Georgia, Moldova and Ukraine was studied by E. Tskhomelidze (2022), who assessed the impact of trade

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on the welfare of the population by comparing the results of individual countries. The overall effectiveness of the DCFTA as an instrument of trade integration was also assessed, proving that trade between the EU and Georgia increased by about 18%, which indicates a positive impact of the DCFTA on trade with the EU.

The development of trade relations is analysed in more detail by Z. Gudushauri and N. Geliashvili (2023), who estimated the share of exports to the EU in Georgia's total exports and noted that the intensity of Georgia's exports from the EU is twice as high as the world average. Similarly to the previous point of view, D. Bidzinashvili (2023) emphasises the growth of Georgia's exports and notes that there is no alternative to European orientation for the country, but this path should be taken as cost-effectively and efficiently as possible. The author notes that despite the difficult political and economic situation in the world and increased risks, Georgia's stable economic growth is noticeable. At the same time, scientists also highlight the need to improve the quality of higher education in the country as a factor of economic development. For instance, D. Narmania *et al.* (2022) emphasise that the key to success in the modern global economic system is to focus on improving students' communication skills, and critical and analytical thinking. Analysing the dynamics and prospects of trade flows between the EU and the EaP countries, T. Grodzicki (2022) argues that the future characteristics and dynamics of trade between the EU and the EaP remain unknown due to the Russian invasion of Ukraine, which caused obstacles to trade flows from Ukraine and economic sanctions against the aggressor.

As such, scientists contributed significantly to the study of this issue, although the reform of the EU customs system and Georgia's approximation to European development necessitate further investigation of related issues. The study aims to examine Georgia's trade and economic relations with the EU and the prospects for adapting the country's customs legislation to common European requirements. The main study objectives are to analyse the dynamics of trade and economic relations and assess the compliance of Georgia's customs legislation with EU requirements.

Materials and methods

The research was conducted using the following methods: analysis of statistical data on trade activity; comparison of unrealised export potential values between countries; graphical – to display the results; generalisation – to bring the information in line with EU requirements. The theoretical basis of the study is based on the scientific works of Georgian, Polish, Ukrainian, Latvian, Estonian, English, French and other scholars who have considered the peculiarities of trade and economic relations between European countries, including Georgia and the EU, and the issues of adaptation of customs legislation to the requirements of the Customs Union.

The statistical data on the dynamics of indicators of trade and economic relations between the EaP countries in 2017-2022 and the volumes of exports, imports, and trade balance of Georgia with the EU in 2020-2021 were analysed based on the European Commission's reports (European Union, Trade..., 2023; EU trade relationships..., 2023). The comparison method was used to compare the indicators of Georgia's realised and unrealised export potential to the EU countries (in particular, Germany, France, Italy Poland, the Netherlands, and the Czech Republic). The level of realisation of the intra-regional trade potential of the EaP region and, in particular, of Georgia, was studied using the information from the EaP Export Helpdesk Internet portal for 2022 (Eastern Partnership: Trade..., 2023). The comparison method was also used to compare the provisions of the Customs Code of Georgia (2019) on customs procedures, transit, automation of the risk management system, control of sanctioned goods at the border, customs protection of intellectual property rights, etc. with the requirements specified in the The Union Customs Code (2016). The assessment of certain changes in the field of customs control made in the course of reforming the customs legislation in Georgia, as well as the completeness of their implementation, was conducted based on the data of the Joint Report of the EU-Georgia Association Agreement 9th Meeting of the Customs Sub-Committee (2023) and the Commission staff working document: Georgia 2023 report (2023). The analysis of the level of public investment in education in Georgia was conducted based on the data from the Report of the Georgian Foundation for Strategic and International Studies on the implementation of educational reforms in Georgia in 2022 (Mitaishvili-Rayyis, 2023). The graphical method was used to study the statistical data on trade in goods between the EU and Georgia in 2020-2022 and Georgia's export potential to the EU in 2022 in terms of dynamics indicators.

The generalisation method was used to summarise the results obtained in the study on the development and scope of trade and economic relations between Georgia and the EU countries; the full use of Georgia's export potential and the introduction of changes in the customs area during the implementation of reforms to meet EU requirements; the development of higher education in Georgia and its impact on the country's economic development; and on the formulation of results on the adaptation of Georgia's customs legislation to EU requirements, which are the final reflection of these results, namely substantiation of the areas of adaptation of the customs legislation of Georgia to the EU requirements, in which further refinement is necessary to achieve greater effectiveness of the customs legislation reforms.

Results

To deepen the EU's political and economic integration with the countries of Eastern Europe and the South Caucasus, as well as to implement the European Neighbourhood Policy, the EaP was launched at the Prague Summit in 2009, which included all EU countries and six other countries – Georgia, Armenia, Belarus, Azerbaijan, Ukraine and Moldova. However, in 2021, Belarus' participation was terminated on the initiative of the country's leadership (Eastern Partnership: Trade..., 2023). The EaP member states are expected to update their contractual relations with the EU by moving from cooperation under partnership and cooperation agreements to association agreements with the EU, as well as expanding free trade areas, simplifying visa regulations, etc.

International trade and economic relations of the EaP countries are strengthening and expanding (European Union, Trade..., 2023). Table 1 shows that over the entire analysed period, imports prevailed over exports, but in almost all years except 2020, there was an increase in both imports and exports compared to the previous year. Among all trading partners for the EaP countries in 2022, the EU countries were the most important, with imports accounting for 31% of the total volume and exports for 49.3%. Russian armed

aggression against Ukraine caused significant changes in trade and economic ties between the EaP countries and the EU, including their strengthening. Comparing the EaP's export flows in 2022 with the previous year, 2021, it should be noted that in 2022, the share of EaP countries' exports to the EU increased by 15 percentage points (p.p.) (from 43% to 58%), although in monetary terms, the total exports of the EaP remained unchanged in both years – USD 98 billion. The main factors that contributed to the reorientation of exports to the EU were mainly the blockade of Ukrainian seaports by Russia and the creation of new logistics routes, as well as the EU's active support for exports (Dziubynskyi *et al.*, 2023).

Table 1. Trade flows of the EaP countries with other countries of the world in 2017-2022

Period, year	Import		Export		Trade balance, EUR million	Total trade volume, EUR million
	Volume, EUR million	Relative change, %.	Volume, EUR million	Relative change, %.		
2018	99.745	11.9	83.877	10.3	-15.869	183.622
2019	112.008	12.3	90.471	7.9	-21.538	202.479
2020	93.956	-16.1	80.477	-11.1	-13.479	174.432
2021	114.117	21.5	106.592	32.5	-7.526	220.709
2022	133.285	16.8	118.727	11.4	-14.557	252.012

Source: compiled based on European Union, Trade in goods with EaP (Eastern Partnership) 6 (2023)

The analysis of the export flows of the five EaP countries was conducted to divide them into two groups depending on the orientation of their exports to the EU. The first group includes Azerbaijan, Ukraine, and Moldova, for which exports to the EU were dominant among other countries in 2022. The second group includes Armenia and Georgia, whose exports to the EU accounted for 15% of each country's total, but the relative importance of the EU as a region for exports has declined compared to 2021. At the same time, the dynamics of exports between the EaP countries increased by only 1 pp in 2022 compared to the previous year. The trends in imports were similar, but their growth compared to exports in 2022 was only 3 pp (from 35% to 38%).

Georgia is one of the countries successfully developing economic relations with the EU. The EU-Georgia Association Agreement was signed on 27 June 2014 and entered into force on 1 July 2016, and includes a DCFTA (Three Eastern Partnership..., 2023). The Georgian government is making significant efforts to bring its national legislation in line with EU standard requirements. According to 2021 data, Georgia's main trading partners were the EU countries, which accounted for 20.5% of the country's trade, and Turkey – 14.6% of trade (EU trade relationships..., 2023). To study the dynamics of Georgia's trade with the EU, it is necessary to analyse the change in exports, imports and the trade balance over a certain period (Fig. 1).

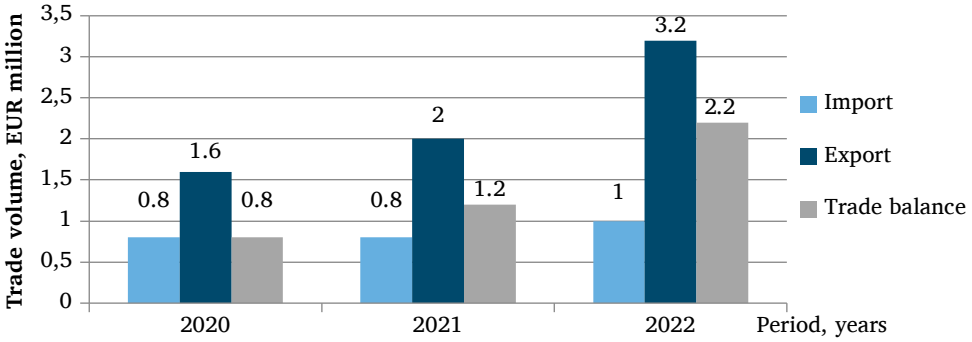

Figure 1. Goods trade between the EU and Georgia in 2020-2022

Source: EU trade relationships by country/region. Georgia (2023)

Figure 1 shows that in 2022, EU exports to Georgia increased by 57.9% and imports by almost 25% compared to 2021. The main export products were machinery and equipment, mineral products, and transport equipment (EU trade relationships..., 2023). However, Georgia's trade opportunities could be broader if the country's full export and import potential is used. According to the EaP Export Helpdesk website, the unrealised intra-regional trade potential of the EaP region is estimated at USD 809.9 million, i.e. 44% of the total potential, and in particular, the unrealised potential of Georgia is 41% (Eastern Partnership: Trade..., 2023). Companies operating in the EaP countries have unrealised potential to create jobs and accelerate economic growth (Fig. 2).

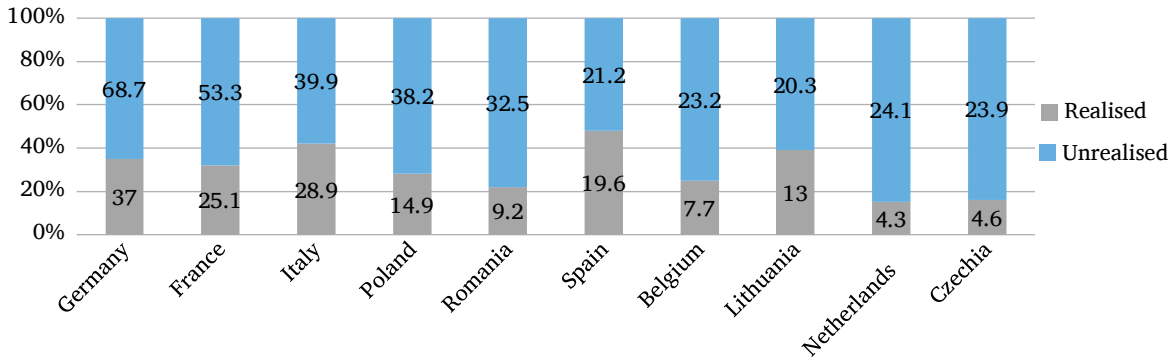

Figure 2. Georgia's export potential to the EU in 2022
Source: Eastern Partnership: Trade Helpdesk. Georgia (2023)

Figure 2 shows that the largest volumes of exports are sent from Georgia to Germany, France, Italy, and Spain, but the export potential with these countries remains less than 50%, and Georgia's least realised potential is with the Netherlands (15%) and the Czech Republic (16%) (Eastern Partnership: Trade..., 2023). Unrealised potential indicates an insufficiently effective economic policy, initiated but not completed or ineffective economic and political reforms in the country, and other reasons. However, an analysis of the implementation of reforms in the EaP countries provides a more detailed understanding of changes in the trade structure in 2022, namely the growing importance of the EU as a trading partner.

In terms of the pace of reforms in the EaP countries, Ukraine ranks first and Georgia second (Movchan, 2023). Georgia's reforms envisage key changes in several areas, including the alignment of the country's technical regulations with EU norms, reflecting the latest changes in the EU acquis. Another important step, which is fully in line with the Joint staff working document "Recovery, resilience and reform: Post 2020 Eastern Partnership priorities" (2021), is that draft laws on amendments to the legislation on joining the euro single payment area have been submitted to the Georgian parliament for approval.

In March 2022, Georgia applied for EU membership and was granted candidate status under an accelerated procedure (Three Eastern Partnership..., 2023). One of the key ways of Georgia's economic development in the European direction and strengthening its position in the international arena, in particular among the EaP countries and the EU, is the adaptation of Georgia's customs legislation to EU standards, which should be understood as the process of convergence and gradual harmonisation of Georgia's customs legislation with the relevant EU legislation to achieve a single customs area. The process usually takes place depending on the country's needs and international commitments.

In general, the adaptation of a country's customs legislation to EU standards is a lengthy process that involves independent stages of legislative improvement, which together ensure its approximation to EU standards. These stages include:

- coordination, i.e. the development of organisational and institutional structures and measures that form the adaptation foundation;
- unification as an independent stage of adaptation, aiming to bring customs legislation in line with common EU standards, mainly by eliminating discrepancies;
- harmonisation, i.e. the formation of common legal principles that serve as the basis for the adoption of legal standards;
- implementation – bringing national legislation closer to international law.

The EU legal system is a set of principles, norms and rules acquired by the EU over the years, which must be preserved in the course of EU development. Therefore, if the EU expands, the new member states must adapt their legal systems accordingly. The basis of the customs legislation of Georgia is the Customs Code of Georgia (2019), adopted in 2019, which defines the customs rules and formalities related to the movement of goods into and out of the country. The customs policy of Georgia aims to stimulate the economic development of Georgia and protect the domestic market, as well as other objectives of the country's domestic and foreign policy. The analysis of the provisions of the Customs Code of Georgia and its comparison with the requirements set out in The Union Customs Code (2016) highlighted the main achievements of Georgia in the implementation of export and import reforms, as well as the shortcomings that the Government of Georgia still has to address to improve compliance with EU requirements. One of the key elements of the country's customs control reform was (EU-Georgia Association..., 2023): the development of e-commerce; harmonisation of customs taxation rules and processes related to distance selling; simplification of customs declaration; planning to introduce the Duty Exemption Regulation starting in 2026; and the deployment of electronic freight information under the EU4Digital project. However, some implementations require further improvement and refinement (Table 2).

Table 2. Areas of Georgian customs legislation adaptation to EU requirements

Area	Implementation difficulties or shortcomings	Ways to improve, possible improvement measures
Ukraine is in the process of acceding to the Convention on the Facilitation of Trade in Goods and the Convention on a Common Transit Procedure. In April 2023, the use of transit was launched, and instructions were published on how to use the New Computerised Transit System (NCTS)	The NCTS declaration has to be filled in by economic operators on a website, so the implementation of the system requires the use of web technology. Some countries offer a web portal for carriers registered in the country to fill in the declarations and a website with easy access for unregistered users	For the NCTS to function properly, a safeguards management system is required, and the development of this system is still ongoing
Control of sanctioned goods at the border has been introduced	The customs authority's operations are slowed down when trucks with goods are stopped at the border, with long waits for a response from the EU to requests for clarification of the application of the sanctions sent to the sanction-mailbox	Georgian government asks EU to speed up response to specific requests
The risk management system is implemented in the automated customs data system and databases for passengers, goods and vehicles crossing the customs border, as well as customs clearance processes	Incomplete implementation of information flows and intelligence cycle schemes at all levels of analysis	Systematic internal and interdepartmental information exchange between the agencies and/or departments involved should be established
Administrative and operational capacity	The structure of the tax authorities is not adapted to the EU customs requirements. Poor compatibility of customs information and technology systems with the EU	Reorganisation of the tax authorities, attraction of additional resources, updating of customs information and technology systems
Legislation on customs protection of intellectual property rights generally complies with EU requirements	No specific clarifications in the application of the law	Clarification is needed on whether the legislation on border measures related to intellectual property provides for the destruction of goods shipped in violation of intellectual property rights

Source: compiled based on R. Seturidze (2017), data EU-Georgia Association Agreement 9th Meeting of the Customs Sub-Committee (2023), Commission staff working document: Georgia 2023 report (2023)

As can be seen from Table 2, Georgian customs legislation is partially aligned with The Union Customs Code. Some provisions require further adaptation to EU requirements. Some progress was made in 2022-2023. However, in the future, Georgia should:

- to adapt the Customs Code of Georgia to The Union Customs Code;
- improve the administrative capacity of the tax and customs authorities and increase the resources of the customs service;
- develop the use of information technology in the customs sector.

Moreover, improving the quality of higher education is essential for the country's successful development and effective implementation of reforms. Improving the quality of higher education can increase the professionalism and qualifications of the population, create new jobs, and contribute to the acceleration of Georgia's economic development. However, this requires greater government involvement.

During 2010-2022, public investment in education in Georgia increased, as evidenced by an increase in budget allocations from 2.4% to 3.62% of gross domestic product (GDP), but this figure is lower than the EU level (Mitaishvili-Rayyis, 2023). For instance, Estonia spends 6.6% of its GDP on education, Denmark – 6.4%, and the UK – 5.5%. The largest share of the education budget is allocated to general secondary education, of which 72% in 2022 was spent on teacher salaries, and only 0.3% of GDP was spent on higher education, which is quite low by international standards.

When adapting Georgian legislation to EU requirements, special attention should be paid to the development of higher education and the approximation of educational legislation to European standards. The country needs to introduce innovations in curricula, develop educational infrastructure, provide professional development and support for teachers, increase public funding, and adopt an inclusive approach to education policy (Begzhan *et al.,* 2021). This will provide the basis for a strong educational system, improve the quality of education, and contribute to the effectiveness of economic reforms and sustainable socio-economic development of the country.

Thus, studies of trade and economic relations between the EaP countries and, in particular, Georgia and the EU countries have a steady upward trend and increase in volume. However, an assessment of Georgia's trade potential shows that it is only 59% realised, and the rest is a loss of profit opportunities for the country's economy. Being on its way to joining the EU, Georgia needs to develop economic ties with other countries and strengthen its position as a trading partner in the international market. Therefore, the Government of Georgia is actively working on reforms, in particular in the area of customs control over the movement of goods across borders, adapting its customs legislation to EU requirements. The analysis of the compliance of Georgia's customs legislation with the EU requirements showed that the country has made significant progress in adapting its legislation, but there are still some shortcomings that need to be addressed in the future to eliminate differences in customs procedures and form a common customs policy with the EU.

Discussion

A study of Georgia's trade and economic relations with the EU countries has shown that the development of cooperation between the EaP countries and the EU plays an important role in strengthening the economies of these countries. However, to deepen economic ties between the countries and create a common customs area between Georgia and the EU, it is necessary to adapt Georgia's customs legislation to European requirements.

Studying the development of the EaP initiative and the impact on its functioning of foreign policy negative factors, in particular, the aggressive position of the Russian side on the European course of development of the EU's neighbouring countries, scholars emphasise the need to change the EU's policy towards the EaP. As such, O. Kozachuk and G. Vasilescu (2021) note that given Russia's aggressive attitude to Georgia, Ukraine, and the Republic of Moldova's attempts to become EU members, the potential for their membership should be properly explained by the European Commission. However, scholars in their studies demonstrate concerns about the future of the EaP initiative and European security. In particular, J.F. Crombois (2023) notes that the Russian war against Ukraine threatens the geopolitical precondition underlying the idea of the EaP and that the granting of candidate status to Ukraine, Moldova, and Georgia remains unjustified against the background of the continued closed policy for new membership. Supporting a similar view, J.F. Drevet (2023) also emphasises that the Russian invasion of Ukraine has led to an accelerated schedule for consideration of the EaP countries' candidacy for EU membership, even though the criteria for membership are far from being met. The scientist outlines scenarios for the development of countries outside the European Neighbourhood Policy, as well as details the situation of each of them and assesses the compatibility of this situation with EU accession. In turn, C. Kaunert *et al.* (2023) discussed the economic security of the EU and its neighbouring countries in the face of fundamental challenges in the world: migration, war, disaster, etc. Such events are seen as a test of resilience not only for the countries affected by them but also for the EU in particular. The authors emphasise that the EU must find ways to ensure its resilience and that of its Eastern partners.

L. Delcour and K. Hoffmann (2018) analyse the EU's policy towards Armenia, Azerbaijan, and Georgia, highlighting three shortcomings of this policy. The article highlights three shortcomings of the EU policy: insufficient EU involvement in the conflict resolution in the South Caucasus; refraining from using political conditionality; and focusing on the large-scale implementation of EU standards. The development of the connection between the EaP countries and the EU was analysed by K. Raik (2022), who emphasised the growing divergence between liberal and illiberal approaches to this connection and argued that to increase the resilience of the EaP countries, it is important to connect them to European infrastructure: roads, energy, and trade flows. Fully supporting the author's opinion, it is worth noting that the creation of common requirements with the EU for exports and imports of goods will strengthen the economy in the EaP countries. Separately discussing the key challenges and threats for the EaP countries on their way to the digital market, O. Tsebenko *et al.* (2022) highlighted the main tools and proposed the author's typology based on the level of digitalisation, the application of which in the EaP countries can bring them closer to EU standards. Supporting the view that digitalisation is necessary, it is worth emphasising that professionalism and technological development of the country, which can be ensured by highly educated specialists, play an important role in this process (Petersone *et al.*, 2016). Therefore, scholars considerably focus on the state of development of higher education in Georgia. Thus, D. Narmania *et al.* (2022) note that education is a fundamentally important issue for the prosperity and sustainable economic development of the country. International experience shows that countries that pay more attention to improving the level of education develop faster.

D. Baltag and I. Romanyshyn (2023) assessed the EU's activities as a foreign policy actor concerning the EaP countries and proved its effectiveness. Considering Georgia's trade practice with the World Trade Organisation (WTO), G. Abuseridze *et al.* (2022) focused on Georgia's economic performance, including the Association Agreement with the EU, which has made a significant contribution to the adaptation of Georgia's trade legislation and acceleration of economic reforms. The authors emphasise that trade stabilisation can be achieved through the implementation of certain WTO regulations in the trade, economic and legal spheres, and despite the complexity of the WTO accession process, it can stimulate growth and economic benefits for Georgia. Furthermore, scholars devote considerable attention to conceptual approaches to the essence of the customs union. For instance, M. Ovádek and I. Willemins (2019) argued that this concept has long remained insufficiently studied in international law and caused tension between the adoption of common rules and state sovereignty.

R. Seturidze (2017) studied the organisation of the transit system in Georgia and the risk system posed to it, presenting a risk management model in which an important role is played by the implementation and effective functioning of the information system. M. Erkoreka and A. Blas (2023) analysed the EU customs policy, in particular, the dynamics of the implementation of differentiated policies in the EU, focusing on negative cases, including customs fraud, to develop a quantitative and qualitative approach to the impact of the customs service on the effectiveness of customs control. One of these cases is related to unfair competition, and the other is a "misinterpretation" of general standards in the customs area related to the dependence of routes (Ketners & Petersone, 2021). The authors rightly emphasised that the implementation of differentiated policies proved to be ineffective in ensuring a level playing field in customs control in the EU, which led to serious negative consequences: economic and budgetary violations; inability to solve problems; illegitimacy of exit, which can lead to a country's disadvantageous competitive position. The reform of the EU Customs Union, launched in May 2023, is the most ambitious and comprehensive reform since 1968 and has several objectives, the main ones being (Chen, 2023; Kovaliova & Svitlychnyi, 2023): to provide traders with centralised electronic interfaces, i.e. the EU Customs Data Space, through which traders can download information and view the entire supply chain and reduce the cost of verifying the compliance of goods; to create a new EU customs authority tasked with coordinated customs control and risk management; to develop e-commerce imports, especially transactions through online platforms.

The study of the customs reform in Georgia confirms that the country is successfully implementing changes and

implementations in all the above areas, which leads to the conclusion that the vast majority of points in terms of adapting customs legislation to EU requirements can be fulfilled. Addressing the issues of legal customs regulation in international trade, B. Landowski *et al.* (2023) considered the issues of customs procedures applied when importing goods into the EU customs territory and provided a classification and description of such procedures. At the same time, the authors rightly emphasise the factors that can cause disruptions in transport processes, which lead not only to transport and trade costs but also to potential supply chain disruptions. These factors should be considered by Georgia when adapting its customs legislation to EU requirements.

Thus, the analysed studies of other scholars on Georgia's trade and economic relations with the EU countries and the adaptation of the country's customs legislation to the EU requirements show that, in general, scholars consider this issue comprehensively and extensively. The main conclusions drawn in this study regarding EU policy, the development of its export-import relations with the EaP member states, as well as the need to develop electronic technologies in the customs sphere and introduce a common transit of Georgia with the EU countries, are in line with those formulated by other scholars and may also help accelerate economic reforms in the country on its way to a European future.

Conclusions

The study shows that the development of trade and economic relations between Georgia, as one of the EaP countries, has a growing trend, which strengthens the country's position in the global market. However, one of the most important tasks for Georgia remains the adaptation of its customs legislation to EU requirements.

The objective set in this study and the analysis of Georgia's trade and economic activities and its customs legislation led to the following conclusions. The analysis of Georgia's trade and economic activity showed that its main trading partners in 2021 were the EU countries, which accounted for about 20.5%. In 2022, there was a significant increase in EU exports to Georgia (by 57.9%) and imports (by 25%), but an assessment of Georgia's export potential shows that it is underutilised (only 41% of the possible). The author substantiates the expediency of increasing the efficiency and effectiveness of the reforms taking place in the country, in particular in the field of customs control of goods crossing the customs border of Georgia. Given the European course of development, the customs legislation of Georgia should be brought in line with the uniform requirements of the EU. The assessment of the achieved results of the reforms in the customs sector and the compliance of customs legislation with EU requirements has identified areas that require further improvement: the use of transit (the guarantee management system needs to be improved); control of sanctioned goods at the border (to speed up the EU's response to specific requests); risk management system (establish systematic internal and interagency information exchange); tax authorities (reorganisation and increase of profitability); customs protection of intellectual property rights (clarification or legislation on border measures). The study shows that improving the quality and investment in education will increase the number of economic professionals. The proposed measures will contribute to deepening Georgia's trade relations with the EU, strengthening their economic ties, and increasing the country's competitiveness in the international arena.

The main areas of further research will be the study of the possibilities of practical implementation of customs reforms in the Georgian economy, considering the country's specifics.

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Conflict of interest

None.

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Адаптація національного митного законодавства до вимог ЄС в контексті розвитку політики східного партнерства

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Анотація. Актуальність дослідження визначається необхідністю оцінки торговельних відносин та митної діяльності Грузії з точки зору їх відповідності європейським вимогам. Метою дослідження є виявлення позицій у сфері митного контролю, які потребують подальшого законодавчого врегулювання та гармонізації із законодавством ЄС. У дослідженні використано такі методи дослідження: аналіз статистичних даних щодо торговельної діяльності; порівняння – для порівняння показників нереалізованого експортного потенціалу між країнами; графічний – для відображення результатів; узагальнення – для узагальнення інформації відповідно до вимог ЄС. У результаті дослідження визначено динаміку торговельно-економічної діяльності Грузії з ЄС; оцінено використання експортного потенціалу з різними країнами ЄС; обґрунтовано ефективність та результативність реформ митного контролю Грузії. Доведено необхідність адаптації митного законодавства до загальних вимог ЄС та визначено напрями конкретних заходів для подальшого вдосконалення митної діяльності: застосування транзиту (необхідне вдосконалення системи управління гарантіями); контроль санкційних товарів на кордоні (для прискорення реагування ЄС на конкретні запити); система управління ризиками (налагодження систематичного внутрішнього та міжвідомчого обміну інформацією); податкові органи (реорганізація та підвищення рентабельності); митний захист прав інтелектуальної власності. Це допоможе наблизити економіку Грузії до економічного простору ЄС. Обґрунтовано доцільність підвищення якості освіти та збільшення державних витрат у цій сфері, що сприятиме підвищенню професіоналізму економічних реформ. Результати та висновки мають практичне значення для виконавчої влади при розробці та реалізації митної політики та митних органів при здійсненні митних процедур

Ключові слова: торговельно-економічні відносини; гармонізація; податки; транзит; торгівля; якість освіти

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Legal foundations of stimulating fiscal policy in the EU

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Abstract. The relevance of the study lies in the fact that in the realities of modern economic dynamics and the transformation of socio-economic systems of the EU countries, the legal framework of stimulus fiscal policy is becoming a key tool for restoring economic growth, supporting businesses, and ensuring sustainable social justice. The purpose of this study is to systematize and analyse the specific legal instruments and provisions that underpin stimulus fiscal policy in the EU. The methods used include analytical method, statistical method, functional method, system analysis method, deduction method, synthesis method and comparison method. The study examined various aspects of fiscal regulation aimed at supporting economic development and social stability in the EU. The study is based on the analysis of tax mechanisms, financial instruments and budgetary strategies used to stimulate certain aspects of the economy. In particular, the impact of tax exemptions and privileges on entrepreneurship and investment activity was examined, as well as the effectiveness of fiscal measures to support small and medium-sized enterprises in countries such as Ireland, Poland, and Germany. The latest EU initiatives to stimulate innovation and green technologies were also studied, considering their legal and financial aspects. The main challenges and obstacles that arise in the process of implementing stimulating fiscal policies are highlighted, and possible ways to overcome these difficulties are identified. The study also draws attention to the interaction between fiscal policy and other areas of legislation, such as social and environmental policy, in particular, in the context of achieving sustainable development goals. The practical

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significance of this study is to provide concrete recommendations for EU governments on how to optimize legal and fiscal instruments aimed at stimulating economic development, innovation, and social stability

Keywords: economic growth; social stability; "green" technologies; strategic management; global challenges

Introduction

In the context of the current economic and social shifts resulting not only from the natural pandemic but also from the general instability in financial markets, EU countries are going through a period of transformation and rethinking their development strategy. In the context of high uncertainty and the need for environmental orientation, the study of the legal aspects of stimulus fiscal policy is crucial. The COVID-19 pandemic and its socio-economic consequences require careful analysis and development of effective financial support strategies for businesses and citizens. At the same time, the volatility in financial markets poses a challenge for the creation of an adaptive fiscal policy that can effectively respond to changing conditions.

The introduction of green technologies in the context of the rapid development of the renewable energy sector and the growth of environmental awareness is becoming a major challenge for EU countries (Vyshnevska *et al.*, 2022). In this context, the study of the legal framework for stimulating fiscal policy becomes a strategically important step towards creating a favourable environment for the development of the green economy. The use of adaptive fiscal strategies, in particular, may prove to be crucial for ensuring financial stability and supporting the sectors of the economy that have suffered the most from the effects of the crisis. Considering the relationship between fiscal policy and social welfare is becoming a key aspect for creating effective tools to support and restore the economic well-being of citizens (Tyshchenko & Naidenko, 2023).

In their paper, M. Petrychko *et al.* (2022) focus on the role of the legal framework for stimulus fiscal policy in Ukraine in addressing current economic challenges, including the pandemic and financial market instability. They argue that legal mechanisms such as tax privileges, financial incentives and other fiscal instruments help to stabilize the economy by supporting businesses and maintaining social stability. Through an analysis of tax measures and their effects, the authors reveal the effectiveness of stimulus fiscal policy in ensuring economic recovery and social security.

The study by L. Marchenko (2022) focuses on the interaction of legal aspects of stimulating fiscal policy with the introduction of green technologies in the EU. The author analyses tax incentives and other financial instruments aimed at supporting renewable energy and sustainable development. The author also points out the need to develop differentiated approaches to taxation and financial support to stimulate specific areas aimed at reducing environmental impact and developing environmentally friendly technologies.

In turn, V.S. Shved (2022) focuses on the social aspects of stimulus fiscal policy in the EU. His research shows how the legal framework affects unemployment, social inclusion, and access to education and healthcare. This allows determining how effectively fiscal policy promotes social justice and what opportunities it creates for improving social well-being. The study by A.S. Mariyash (2021) also reveals that the legal framework for stimulus fiscal policy in the EU is an important incentive for innovative development. The author analyses the legal instruments, namely tax incentives aimed at supporting high-tech industries and research projects. These results are an important source for developing strategies aimed at supporting innovation in the European Economic Area, taking into account the aspects and needs of these industries. The results obtained by M. Larch *et al.* (2021) show doubts about the effectiveness of fiscal policy in the EU, especially in the context of recovery and reforms. In their study, they emphasize the importance of a balanced approach to development that aims to ensure a sustainable economic and environmental future for the region.

The results of the previous authors' studies show that they focused on different aspects of stimulus fiscal policy in the EU. However, they did not highlight specific measures of stimulus fiscal policy, their impact on various sectors of the economy and society, as well as possible negative consequences or challenges. The purpose of this study is to develop recommendations for optimizing stimulus fiscal measures in the EU, providing more effective and diverse instruments for achieving strategic goals in the areas of economy, social policy, and environment.

Materials and methods

The source base of the study included a variety of regulatory and official information and analytical sources, which allowed for a comprehensive and objective approach to the analysis of stimulus fiscal policy in the EU. Analysis of treaties, regulations, and reports of EU governing bodies, such as the Consolidated Version of the Treaty on the Functioning of the European Union (2012), the Statute of the European System of Central Banks and of the European Central Bank (2011) and the Stability and Growth Pact (1999), which provided a significant legal and practical context for the study. The analysis of these documents provided the basis for understanding the formal framework and instruments used in the context of fiscal policy. Academic articles, monographs, and studies in the fields of finance, economics, and law contributed to the theoretical foundation of the study. The use of information and reports provided by international economic organizations (EU Tax Data, 2024; NextGenerationEU, 2024) played a key role in creating an objective assessment of the economic and social situation in the EU. The use of these data allowed for an objective analysis of the effectiveness of stimulus fiscal strategies in the EU to develop evidence-based conclusions and recommendations for further research in the field of financial policy.

The scientific research on the study of topical issues of the topic was carried out using methods that reveal the content of the object. The analytical method allowed thoroughly examining EU legislation and regulations, identifying key points, and establishing their interconnection. This approach made it possible to classify the information, making it available for further scientific analysis. The statistical method was used to objectively measure the effectiveness of stimulus fiscal policy. This method helped to determine the relationships between various economic indicators, making it possible to quantify the results. The functional method was used to study aspects of fiscal policy in depth. The study of

the tax structure, mechanisms for stimulating the economy and social sectors allowed determining how individual elements affect overall development.

The method of system analysis was used to consider fiscal policy as a complex system of interacting parts. This approach helped to identify internal dependencies and interactions, which are key to drawing objective conclusions. The method of deduction was used to study the general principles and laws underlying the fiscal policy of EU countries. The study of the main theoretical principles made it possible to identify specific strategies based on general provisions that became the basis for understanding the principled approach to stimulus fiscal policy. The synthesis method was used to integrate various elements of fiscal policy into a coherent understanding. This method helped to collect and combine various sources of information, forming a coherent and complete picture of the effectiveness of stimulus measures.

The comparative method helped to explore the differences and similarities in approaches to identify best practices and use them in the formulation of recommendations. The comparative analysis provided an objective view of different strategies, which can serve as a basis for formulating optimal solutions in the context of stimulus fiscal policy. As a result, these activities were undertaken to consider the feasibility of implementing specific stimulus legal measures and to assess their impact on the economy and social sectors in EU countries.

Results

Stimulating fiscal policy, which is a key instrument of economic management, is based on numerous concepts that define various aspects of the impact on economic dynamics and development. It is possible to identify the main concepts of this policy that will determine the directions and instruments that can be used in response to economic challenges. The first important concept is related to tax policy. Reducing income and corporate taxes is a strategy to increase the spending power of individuals and businesses. This can stimulate investment, support consumption, and contribute to overall economic growth. Monetary policy, including the regulation of interest rates, also affects credit activity and investment by regulating the money supply in circulation (Long & Liao, 2021). The second concept is the direction of public spending and infrastructure projects. Increased government spending on key sectors such as infrastructure, education, and healthcare can be a strong stimulus for economic development. Investments in infrastructure not only boost production but also create new jobs, which supports social stability (Flynn *et al.*, 2022). In addition, the third concept defines the importance of social programmes and support for the population. Increasing social spending and supporting social programmes can improve the lives of citizens, reduce inequality, and increase their overall standard of living (Geels, 2019). The fourth concept relates to supporting domestic demand. Creating measures that increase consumer spending can be an important factor in restoring economic growth. Consumption is a key driver of economic activity, and measures to stimulate it can have a significant impact (Addison *et al.*, 2018). All of these concepts need to be considered in the context of a country's specific circumstances. An effective stimulus fiscal policy requires a proper combination of these aspects and consideration of the economic environment. It is necessary to balance conservative and innovative approaches in order to achieve optimal results in maintaining economic sustainability and social welfare.

Within the EU, fiscal policy is governed by a number of legal instruments and regulations that focus on taxation, budgetary constraints and other aspects of the financial activities of its member states. The key document that defines the EU's economic and fiscal framework is the Treaty on the Functioning of the European Union (TFEU), also known as the Lisbon Treaty (Consolidated Version of the Treaty…, 2012). The finance-related articles of the TFEU define the principles of economic policy coordination and budgetary management within the EU. Particular attention is drawn to Article 126, which sets out requirements for limiting budget deficits and debt of EU member states. This regulation establishes specific criteria and mechanisms for monitoring the financial sustainability of countries and promotes a common fiscal policy within the EU.

The Statute of the European Central Bank (ECB) is the key document that defines the roles and functions of the ECB and the national central banks of the EU member states (European Central Bank, 2011). From the perspective of stimulative fiscal policy, this document gives the ECB important tasks in the field of monetary policy, money supply control and influence on financial markets. The ECB uses monetary instruments to stimulate the economy by regulating the amount of money in circulation and setting interest rates. Its tasks in the context of stimulative fiscal policy may include taking actions to support economic growth and create favourable conditions for financial stability in the Eurozone.

The European Fiscal Council is defined as an important financial management body in the EU aimed at coordinating fiscal policy, in particular, in the Eurozone. The main goal of the Council is to ensure compliance with the rules and restrictions set out in the Stability and Growth Pact (1999), which regulates the budgetary policy of EU member states. The Council interacts with member states, providing them with advice and evaluating their fiscal strategies to ensure the coherence and effectiveness of fiscal measures. In addition, it plays a key role in ensuring that member countries comply with the limits set by the IMF, including maximum budget deficits and public debt ceilings. This approach is aimed at ensuring financial system stability and economic resilience in Europe. Through interaction and the setting of standards of fiscal discipline, the European Fiscal Council contributes to the effective functioning of fiscal policy in the EU.

The European Commission also issues tax directives to harmonize approaches to taxation across the EU. These documents regulate aspects such as income taxation, consumption taxes and other fiscal aspects. They help to avoid double taxation and ensure internal consistency in fiscal matters. These legal instruments are the basis for the functioning of the EU's single fiscal system. They ensure coordination of economic and fiscal policies between member states and contribute to financial stability and economic growth in the region.

The EU uses a wide range of fiscal instruments to stimulate economic development, ensuring the sustainability and competitiveness of its members. The key aspects of fiscal instruments are tax rates, financial incentives, and financial support mechanisms. The EU defines common principles for the tax systems of its member states, aimed at creating a more competitive and stable economic environment. Tax rates within the EU play an important role in determining the level of taxation of various types of income, corporate profits and

other fiscal parameters. These rates can be used as a means to stimulate economic activity and investment, as well as to ensure equilibrium in the fiscal systems of member states. Table 1 shows the main tax rates in EU countries. The choice of countries is based on their diversity in terms of economic development, fiscal policies and socio-economic conditions.

Table 1. Rates of basic taxes in EU countries

Country	Personal income tax	VAT	Income tax
France	Progressive: from 14 to 45%, deposits and dividends – 12.8%	20%, discount – 5.5%	31%
Germany	Progressive: from 14 to 45%, deposits and dividends – 25%	19%, preferential – 7%	29.89%
Spain	Progressive: from 9.5 to 22.5%, deposits and dividends – 19%	21%, preferential – 10%	25%
Norway	Progressive: from 12 to 38.2% deposits and dividends – 16%	25%, preferential – 12%	23%
Romania	10% deposits – 10% and dividends – 5%	19%, preferential – 9%	16%
Poland	Progressive: 18 and 32%, deposits and dividends – 19%	23%, preferential – 8%	19%
Hungary	15% deposits and dividends – 15%	27%, preferential – 5%	9%

Source: developed by the authors based on EU Tax Data (2024)

The EU recognizes the importance of tax competition and transparent rules to attract investment. Countries that successfully apply this principle can attract more investment and promote economic growth by reviewing their corporate tax system and attracting international companies through low tax rates (Dourado, 2018). Fiscal incentives are a key component of EU fiscal policy to support strategic sectors and initiatives. The NextGenerationEU Fund is an important instrument of EU fiscal policy aimed at stimulating economic recovery and development after the COVID-19 pandemic. Its creation is part of a larger recovery plan that provides significant financial resources to support strategic sectors and initiatives. The Fund is used to finance projects in the areas of green technologies, digital transformation, and sustainable development. These investments are aimed at stimulating innovation and increasing efficiency in areas that are strategically important for the EU's future. From a fiscal point of view, the fund functions as a large-scale financing instrument to support economic recovery and reforms.

It is planned to raise significant amounts of money through the issuance of long-term bonds in the market, making the EU one of the most important participants in the euro-denominated debt market. Specifically, according to the European Commission's plans, it is planned to raise up to EUR 806.9 billion over the period 2021-2026. This approach makes it possible to provide significant financial resources for the implementation of strategic projects and reforms aimed at supporting economic growth and sustainable development. The structure of investments under the NextGenerationEU fund is shown in Figure 1, where 90% is allocated to the Recovery and Resilience Facility and 10% is allocated to other programmes.

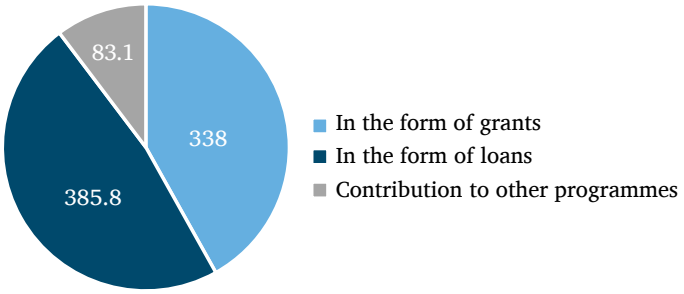

Figure 1. Investments with the help of NextGenerationEU funds, billion euros
Source: developed by the authors based on data from NextGenerationEU (2024)

This amount includes up to €250 billion for the issuance of green bonds. The money raised from the bonds will help the EU overcome the immediate challenges of recovery and accelerate the transition to a green economy and the digitalization of the European economy. Member states can use the Recovery and Resilience Facility for specific projects aimed at strengthening the digital sphere of the economy and society. This includes initiatives to develop e-government, digital education, support for innovative technologies, and other measures to stimulate digital development. For example, in 2022, €127 billion was allocated for digital reforms and investments in national recovery and resilience plans. Some countries have exceeded the mandatory 20% threshold by allocating 26% of the Recovery and Resilience Facility to digital transformation. Other member states, including Austria, Germany, Luxembourg, Ireland, and Lithuania, have invested more than 30% of their allocations in digital technologies (Androschuk, 2023).

EU fiscal instruments play a critical role in supporting economic development and sustainability. Aimed at stimulating investment, innovation and strategic initiatives, they help create a favourable economic environment. Properly targeted fiscal instruments can have a significant impact on economic development in the region. EU countries use a variety of fiscal measures to support the small and medium-sized enterprise (SME) sector, aimed at stimulating entrepreneurship and promoting innovation. One of the most effective measures is to reduce the tax burden on SMEs. For example, Ireland implements a progressive taxation system, where tax rates increase in proportion to the size of the

enterprise. This allows smaller businesses to compete more effectively in the market and provides additional resources for their development (Brauers & Oei, 2020). In addition, many EU countries provide grants and financial support for SMEs through various programmes. The Just Transition Fund in Poland allocates financial resources to support enterprises in regions undergoing structural changes due to economic recovery. The Fund provides financial support for the adaptation of regions to structural changes and influences the allocation of fiscal resources to achieve strategic goals in the field of sustainable development. The Just Transition Fund in Poland goes through a budgetary process where the sources of funding and the allocation of funds to various programmes and initiatives are approved. This procedure also includes public discussions, approval, and monitoring of the use of funds in accordance with approved budget plans and strategies (Song *et al.*, 2020).

In addition, fiscal measures should promote innovation in SMEs. Germany has a tax credit programme aimed at supporting innovative projects in the SME sector. This initiative provides financial support to enterprises that develop innovative ideas and technologies, helping to increase their competitiveness in the market. These loans enable enterprises to finance new projects and conduct research and development, which helps to increase their scientific and technological potential (Khudolei *et al.*, 2021). This set of measures contributes to the sustainable development of small and medium-sized enterprises in the EU. The implementation of stimulus fiscal policies faces a number of challenges and obstacles that are important to consider when designing and implementing such measures. First, fiscal constraints may make it difficult to finance stimulus measures, especially for countries with large fiscal deficits or public debt. Countries with high levels of debt may be forced to limit the amount of investment in stimulus programmes due to a lack of financial resources. In particular, Southern European countries such as Greece and Italy have traditionally faced high debt levels. In 2010, Greece asked international creditors for financial assistance due to severe debt problems (Khudolei *et al.*, 2021). Political opposition can also complicate fiscal initiatives due to divergent views on the best measures. For example, party or ideological differences can lead to difficulties in adopting and implementing stimulus measures, even if they may be beneficial for the economy.

Tax competition between EU countries affects the effectiveness of measures, as countries try to attract and retain businesses by offering low tax rates. One example of this effect can be found in Ireland. This country has introduced low tax rates, in particular, corporate income tax, which is significantly lower compared to other EU countries. This approach has become one of the key factors that have attracted multinational companies and investors to the country. Many multinationals chose to locate their headquarters or operating units in Ireland, where tax liabilities were lower compared to other European countries. This has led to challenges in the tax bases of other countries, as business flows to countries with more favourable tax conditions. In order to ensure a level playing field and competitiveness, EU countries may need to coordinate measures to avoid destabilizing the regional economic situation and losing tax revenues (Mazzanti *et al.*, 2020).

Careful planning and consideration of all factors, including political, economic and budgetary, is essential for the successful implementation of stimulus fiscal policies. To achieve maximum effectiveness, a set of strategies is needed that covers various aspects of fiscal policy and takes into account current challenges and opportunities:

1. Firstly, diversification of funding sources is important. Considering the current state of the economy, it is possible to highlight the importance of attracting the private sector. Public-private partnerships and capital market investments can provide additional resources for the implementation of key projects. For example, successful public-private partnerships in the EU, such as infrastructure projects, demonstrate that private capital can be used effectively to jointly achieve strategic goals. It is necessary to develop standards and regulations for the involvement of the private sector in the implementation of incentive programmes, as well as to establish mechanisms to guarantee transparency and accountability in the relations between the public and private sectors.

2. The second area is political coordination. Ensuring unity in political decisions on fiscal issues is an important prerequisite for the successful implementation of strategies. A broad political consensus can reduce the risk of unexpected changes and promote sustainable development. Cooperation among EU member states, for example in establishing a common fiscal policy strategy, can ensure consistency and stability in the region. Establishing a common fiscal policy strategy in the EU may require additional agreements and regulations to ensure consensus among member states. To propose the establishment of a body to coordinate fiscal strategies of the member states and introduce mandatory consultation mechanisms, and to define the role of national bodies.

3. Flexible fiscal instruments provide for the possibility of rapid and effective changes in fiscal policy in line with changes in economic conditions. For example, regular updates of tax rates, the use of tax refunds and other incentives can serve as tools to deal with economic challenges such as recession or inflation. The implementation of flexible fiscal instruments allows EU countries to respond effectively to unexpected circumstances and support the economy. Establish procedures and criteria for rapidly changing tax rates and other fiscal instruments depending on economic circumstances. Establish standards for regular updates of tax rates and mechanisms for responding to economic changes, and involve fiscal policy authorities in the preparation of national-level mechanisms.

4. Another key component of an effective fiscal policy is to stimulate innovation and digital transformation. Tax incentives for research and development, investment in digital technologies, and other measures can serve as an incentive for companies to innovate and modernize. For example, tax incentives for companies that implement green technologies contribute to the transition to a sustainable economy. The introduction of tax benefits and incentives for companies that actively implement innovative technologies may require regulatory regulation and clarification of tax legislation. It is necessary to develop a unified system of tax incentives for innovations and create criteria for their receipt, and involve national authorities in the implementation of programmes and incentives.

5. Socially oriented policy is the fifth important area. It includes measures aimed at supporting small and medium-sized enterprises. For example, the possibility of tax credits or privileges for SMEs can help them grow and create new jobs. Fiscal measures can also include social

programmes aimed at reducing inequalities and ensuring social stability. The development of tax instruments to support SMEs may require changes to tax legislation and the creation of mechanisms for accessing tax credits. Mechanisms for creating and using a fund for socially-oriented activities should be defined, and national governments should be encouraged to participate in the fund.

6. Synchronization of fiscal policy with other economic policies, such as monetary policy and structural reforms, is important for a comprehensive approach to development. Coordination of measures allows for synergies and positive interactions between different areas of economic activity, improving the overall state of the economy. Define mechanisms for coordinating fiscal policy with other elements of economic policy, and establish regulations for joint responses to challenges. Establish standards for jointly combating tax dumping between member states, and involve public administration in this process.

7. An effective monitoring and evaluation system is the last but not the least important aspect. Continuous updating of strategies based on collected data allows adapting fiscal policy to changes in socio-economic conditions and maximizing the effectiveness of measures. Monitoring systems can also serve as a tool for identifying the need for new measures and adjusting strategies to achieve the set goals. It is also necessary to develop a unified monitoring and evaluation system at the EU level, and to introduce national reporting systems in line with European standards.

Integration of these strategies into a single set will allow the EU to maximize the potential of stimulus fiscal policy and ensure sustainable economic development in the region.

Discussion

The results of the study of fiscal policy in the EU point to a number of key aspects that determine the effectiveness and impact of these strategies on the economic development of the region. A look at tax rates in different EU countries shows a variety of approaches. Countries with high taxation may face large budget revenues, but at the same time, this can have an impact on the business environment. This aspect highlights the need for a balance between securing the necessary budgetary resources for the government and creating a favourable business climate. The ability to ensure an optimal balance between the tax burden and business incentives that promotes sustainable economic development becomes important.

The study highlights the importance of supporting small and medium-sized enterprises and implementing social programmes in the context of EU fiscal policy. Measures aimed at these target groups demonstrate great potential for stimulating economic development and social growth in the region. Special tax benefits, access to financial resources and other incentives for SMEs can contribute to their growth and competitiveness. Socially-oriented policy, in turn, is determined by the implementation of programmes and measures aimed at supporting citizens. The implementation of such programmes reduces social risks, improves the quality of life and social well-being. Countries with effective social policies can see the benefits of economic growth extend through reduced inequalities and increased social inclusion.

Allocating financial resources to green technologies and innovation is another important area of fiscal policy. This includes the allocation of funds for the development and implementation of energy efficient technologies, renewable energy sources and other environmentally friendly innovations, grants for technology start-ups and other forms of financial assistance. This stimulates the development of innovative products and services, ensures the competitiveness of European companies in the global market, and contributes to the fight against climate change and ensures the sustainability of the economy in the face of growing environmental pressure (Shubalyi *et al.*, 2023).

In their study, K. Bańkowski *et al.* (2021) analysed in depth the impact of flexible fiscal instruments on the EU economy. Their study highlights the importance of fiscal policy adaptability to economic changes. The authors' analysis reveals how such flexibility allows the state to maintain economic stability, ensuring the efficient development of enterprises and avoiding serious economic crises. The mechanisms of flexibility are considered, including the speed and ease of changing tax rates and other fiscal policy instruments. An important aspect of their work is to demonstrate how changing fiscal parameters can be an effective tool in the hands of the state to adapt to unfavourable conditions and maintain economic resilience in an uncertain environment. The authors' findings, like the research above, highlight the importance of adaptability in the current environment and point to specific ways to improve the flexibility of fiscal instruments to support the stability and efficiency of the EU's economic development. The flexibility of fiscal policy allows for the rapid implementation of measures aimed at supporting businesses and households, which contributes to a faster economic recovery (Yara *et al.*, 2023).

The work of Y. Peng and C. Tao (2022), in turn, analyses the role of fiscal policy in stimulating innovation and digital transformation, drawing attention to the importance of tax incentives for companies that actively implement new technologies. The researchers examine in detail the mechanisms of these privileges and their impact on the development of the modern sector of the economy and strengthening international competitiveness. They consider examples where the introduction of such incentives has led to the stimulation of innovative development and the active introduction of digital technologies. Tax incentives may include lower tax rates for technology companies, increased depreciation deductions for equipment, or tax credits for research and development expenses (Babenko *et al.*, 2023). It should be noted that such an approach not only helps to create a favourable environment for innovation, but also encourages companies to actively implement modern technologies. In particular, this may include the development of new products, the introduction of production innovations, and the strengthening of digital infrastructure. The authors' work serves as an important addition to the general understanding of how fiscal instruments can be effectively used to support innovation and stimulate digital transformation in the modern world.

In addition, in their study, F. Bartolacci *et al.* (2020) draw attention to the importance of socially oriented fiscal policy and its impact on small and medium-sized enterprises. The authors take an in-depth look at the fact that the implementation of social programmes can have additional benefits for the economy, in addition to reducing social risks. Implementing social programmes, such as simplified taxation for SMEs, tax credits or grants for job creation, can stimulate the business environment and contribute to its sustainable growth (Roshylo, 2023). The authors provide

examples of countries where socially-oriented measures have already led to positive results. For example, the introduction of support programmes for SMEs in the EU has led to an increase in the number of new businesses and jobs. The authors' findings, as well as the research above, underscore the idea that socially-oriented measures are important for supporting businesses and civil society in general. Such a coherent understanding of the situation adds weight and credibility to the discussion of fiscal strategies in the EU.

The paper by V. Gaspar *et al.* (2019), in turn, analyses in depth the interaction of fiscal policy with other elements of economic strategy. The authors emphasize the importance of close coordination of various policy aspects, including monetary policy and structural reforms. The focus of the paper is on how such coordination can lead to a comprehensive and effective impact on the region's economy. The authors focus on the idea that improved interaction between different economic policies allows for a balanced and complementary system of measures aimed at supporting economic growth. This approach makes fiscal policy more effective as it interacts with other components of the economic system to achieve the overall goal of stability and development. The results of the authors' research indicate similar approaches and emphasis in the study of fiscal policy. As in the study above, the importance of coordinating fiscal policy with other elements of the economic strategy is emphasized to achieve a comprehensive and effective impact on the region's economy.

The study by H. Chenet *et al.* (2021) focuses on the importance of a monitoring and evaluation system in the context of fiscal policy. The authors analyse how the constant updating and adaptation of strategies based on monitoring results can determine the effectiveness of fiscal measures and help to respond quickly to changes in the economic environment. A monitoring system can serve as a key tool for determining the success of fiscal strategies in real time. They emphasize that the appropriate use and analysis of data allows not only effectively adjusting current strategies, but also maximizing the positive impact of fiscal measures on the economy. In the context of a rapidly changing economic environment, an effective monitoring and evaluation system becomes a key tool for adapting and optimizing fiscal policy. This aspect can be defined as one of the important elements for achieving sustainable economic development.

Overall, the authors' research provides a comprehensive and exhaustive overview of various aspects of fiscal policy in the EU context. Their conclusions point to the importance of careful analysis and adjustment of the various components of fiscal strategies to achieve sustainable economic development. The success of fiscal strategies depends not only on individual measures, but also on their interaction as part of a comprehensive approach. Adaptation to changes in the economic environment is a key aspect of efficiency. An important element is also the systematic monitoring of results, which allows for a prompt response to changes and optimization of fiscal measures.

Conclusions

This study examines various aspects of stimulus fiscal policy and its role in economic development, particularly in the EU context. The findings of the analysis point to the importance of tax policy, budget expenditures, social programmes and support for domestic demand. Reducing income and corporate taxes helps stimulate consumption and investment, contributing to overall economic growth. Increased fiscal spending on infrastructure and social sectors contributes to stability and development, while support for domestic demand, including increased consumer spending, could be key to a recovery in economic growth.

An overview of the legal framework shows that the Treaty on the Functioning of the EU and the Statute of the European Central Bank define the principles of economic policy coordination and budgetary management. In particular, Article 126 of the Treaty sets out requirements for limiting budget deficits and debt of EU member states. The European Fiscal Council plays a key role in enforcing the rules and limits, ensuring the coordination and effectiveness of fiscal measures in the Euro area. The European Community uses a wide range of fiscal instruments to stimulate economic development and support its members. The importance of fiscal measures, such as tax rates, financial incentives, and support mechanisms, is determined by their impact on taxation, economic activity and the ability of countries to achieve sustainable financial development. One of the key instruments of the EU's fiscal policy is the NextGenerationEU Fund, which aims to stimulate economic recovery and development after the COVID-19 pandemic. It emphasizes the importance of a harmonious combination of different aspects of fiscal policy to achieve optimal results in maintaining economic resilience and social well-being in the EU. The combination of concepts and strategies enshrined in regulatory acts sets the course for sustainable development and competitiveness in the region. Integrating the strategies into a single framework will allow the EU to maximize the potential of stimulus fiscal policy and ensure sustainable economic growth.

Further research could focus on analysing the impact of new technologies and digital transformation on fiscal strategies. The socio-economic impact of fiscal decisions on different categories of the population and businesses could also be investigated.

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Conflict of interest

None.

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Анотація. Актуальність проведення дослідження полягає в тому, що в реаліях сучасної економічної динаміки та трансформації соціально-економічних систем країн ЄС, правові засади стимулюючої фіскальної політики стають ключовим інструментом для відновлення економічного зростання, підтримки підприємств та забезпечення стійкої соціальної справедливості. Мета даного дослідження полягає у систематизації та аналізі конкретних правових інструментів та положень, які лежать в основі стимулюючої фіскальної політики в країнах ЄС. Серед використаних методів було застосовано аналітичний метод, статистичний метод, функціональний метод, метод системного аналізу, метод дедукції, метод синтезу та метод порівняння. В процесі дослідження було вивчено різноманітні аспекти фіскального регулювання, яке спрямоване на підтримку економічного розвитку та соціальної стабільності в ЄС. В основі дослідження лежить аналіз податкових механізмів, фінансових інструментів та бюджетних стратегій, які використовуються для стимулювання певних аспектів економіки. Зокрема, розглядався вплив податкових звільнень і пільг на підприємництво та інвестиційну активність, аналізувалась ефективність фіскальних заходів щодо підтримки малих та середніх підприємств в таких кранах, як Ірландія, Польща, та Німеччина. Також вивчались новітні ініціативи ЄС щодо стимулювання інновацій та зелених технологій, враховуючи їхні правові та фінансові аспекти. Виділено основні виклики та перешкоди, що виникають у процесі впровадження стимулюючих фіскальних політик, і визначено можливі шляхи подолання цих труднощів. Дослідження також звертає увагу на взаємодію між фіскальною політикою та іншими сферами законодавства, такими як соціальна та екологічна політика, зокрема, в контексті досягнення цілей сталого розвитку. Практичне значення даного дослідження полягає у наданні конкретних рекомендацій для урядів країн ЄС щодо оптимізації правових та фіскальних інструментів, спрямованих на стимулювання економічного розвитку, інновацій та соціальної стабільності

Ключові слова: економічне зростання; соціальна стабільність; “зелені” технології; стратегічне управління; глобальні виклики

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Comparative analysis of Islamic banking regulation in Kyrgyzstan and Central Asian countries

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Abstract. The Islamic banking regulation plays a key role in ensuring the development of this type of financial activity, especially for countries with a predominantly Muslim population, such as the Kyrgyz Republic and other Central Asian countries, in particular the Republic of Kazakhstan and the Republic of Tajikistan. Therefore, the study aims to analyse and compare the peculiarities of the legal framework that regulates the activities of Islamic banks. Legal analysis, statistical analysis, grouping, generalisation, comparison, and abstract and logical thinking methods were used in the article. The information basis for this study included the current laws and regulations of Kyrgyzstan, Kazakhstan, and Tajikistan in the field of Islamic banking regulation. The study analyses the laws that establish the principles of operating and regulation of Islamic banks, as well as the regulatory documents of the Central banks of the Kyrgyz Republic, Kazakhstan, and Tajikistan. The study identifies and analyses the key requirements established for the establishment of Islamic banks, Shariah boards operating within such banks, as well as prudential standards for financial institutions operating on the principles of Islamic finance. A comparative analysis of regulatory and legal documents has made it possible to formulate both common and different approaches used to ensure and regulate the activities of Islamic banks. It is established that the key difference between the legal regulation of Islamic banks in Kazakhstan, as compared to Kyrgyzstan and Tajikistan, is the lack of possibility for banking structures to combine traditional banking activities with activities based on the principles of Islamic Finance. The study results can be used by the authorities that form the legislative framework and regulate the activities of Islamic banks, and entities operating in the banking system, as well as by the scientific community interested in ensuring the Islamic banking regulation in Kyrgyzstan and other Central Asian countries

Keywords: principles of Islamic Finance; Islamic financial institutions; Islamic banking regulation; Islamic financial system; management; state control

Introduction

The Islamic banking is a system of financial services that is based on the principles of Shariah (Islamic law). This type of banking activity aims to provide financial services that comply with the principles of Islamic Finance. Islamic banking is of growing interest in Kyrgyzstan and other Central Asian countries. The study of legal regulation of Islamic financial and credit institutions is particularly relevant for countries that are forming a financial system based on the parallel

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functioning of traditional banking structures with institutions using principles of Islamic Finance, and more importantly, organisations that combine these two models by introducing Islamic financial products into their classical operational portfolio.

As E. Djeentaeva (2022) notes, the financial sector in Kyrgyzstan shows a trend of development, as total assets and liabilities are increasing from year to year and the client base is growing. This implies the use of a wide range of different financial instruments, including a fundamentally new approach to investing in projects based on Islamic rules and moral and ethical norms. These rules and regulations reject the use of interest on loans, exclude usury, and the relationship between the borrower and the lender is based on mutual trust and shared responsibility (Kostruba & Hyliaka, 2020). There is therefore a need to harmonise the legal framework that regulates traditional finance with this type of financial activity. For this purpose, it is necessary to incorporate the practices of other countries, highlighting the features of regulatory mechanisms aimed at Islamic banking, which will be done in this study.

Considering the Islamic Development Bank as an opportunity to obtain investment capital in the real sector of the Kyrgyz economy, A. Mirzakhmedova (2023) notes that the integration of the Kyrgyz Republic into the international community as a result of social, financial, economic, and political reforms at the end of the last century, led to an understanding of the need for comprehensive interaction with international financial and credit structures. As a result, Kyrgyzstan joined the Islamic Bank Group, which became an impetus for the development of Islamic banking in the country and the need to ensure the regulation of this activity through the formation of new and improvement of the existing legal framework (Abykeeva-Sultanalieva *et al.*, 2022).

A. Zhoraev and A. Yüksek (2021) conclude in their study that despite the modest market volumes of Islamic banking in Central Asian countries. In general, the Islamic finance in Kyrgyzstan has subsequent prospects for development, which is due to the emergence of international Islamic banking structures that offer innovative financial market products. However, the study does not focus on the problem of legal regulation of Islamic financial institutions as a fundamental factor in the development of this financial activity.

A detailed study of the characteristics of the banking system, and Islamic banking in particular, is carried out in the study by S. Kairdenov *et al.* (2021). The authors conclude that it is necessary to develop optimal solutions to the pressing problems of the banking sector of Kazakhstan and other Central Asian countries, one of which may be Islamic banking. The authors note that the effectiveness of Islamic banks depends on the regulatory policy, which, in turn, affects the mechanism and features of Islamic bank management.

Despite the existing scientific research, the problem of peculiarities of modern legal regulation of Islamic banking in the countries of Central Asia, especially through comparative analysis, is poorly covered in the scientific literature. Given this, as well as the growing popularity of financial operations carried out on the principles of Islamic finance, the purpose of the article is to study modern approaches, mechanisms, and principles of legal regulation of Islamic banking in the Republic of Kyrgyzstan and to compare this process with other countries, in particular with some Central Asian states.

Materials and methods

The legal and regulatory framework of Kyrgyzstan, Tajikistan and Kazakhstan became the information basis for conducting a comparative analysis of the peculiarities of regulatory and legal support and regulation of financial institutions in the banking sector operating on the principles of Islamic finance.

To study the fundamental principles and peculiarities of regulation of the Islamic banking in Kyrgyzstan, the article analyses the Law of the Kyrgyz Republic No. 93 “On Banks and Banking Activities” (2022). To assess the peculiarities of deposit activity of Islamic banks, the Law of the Kyrgyz Republic No. 78 “On the Protection of Bank Deposits” (2008) was analysed. To identify specific mechanisms of legal regulation of Islamic banking in Kyrgyzstan, related regulatory and legal documents of the National Bank of the Kyrgyz Republic (NBKR) were also selected. In particular, these are Resolution of the Board of the National Bank of the Kyrgyz Republic No. 32/2 “On the Implementation of Islamic Principles of Financing in the Kyrgyz Republic within the Framework of a Pilot Project” (2006), Resolution of the Board of the National Bank of the Kyrgyz Republic No. 38/8 “On Approval of the Regulations “On Operations Carried out Following Islamic Principles of Banking and Financing” (2009), to study the specifics of the implementation of banks, including those that have opened Islamic windows, certain types of operations that comply with the norms of Islamic finance.

To assess the requirements for risk management in banks that use Islamic principles of activity, the Resolution of the Board of the National Bank of the Kyrgyz Republic No. 2018-P-12/30-3-(BS) “On Approval of the Regulations “On the Minimum Requirements for Risk Management in Banks Carrying out Operations Following the Islamic Principles of Banking and Finance” (2018). To determine the key requirements that must be met to obtain a licence and further implementation of Islamic banking operations, the Resolution of the Board of the National Bank of the Kyrgyz Republic No. 2017-P-12/23/1-(NPA) “On Approval of the Regulations “On Licensing the Activities of Banks” (2017), as well as Resolution of the Board of the National Bank of the Kyrgyz Republic No. 2022-P-12/78-7-(NPA) “On Approval of the Regulations “On Economic Standards and Requirements Mandatory for Compliance by Commercial Banks of the Kyrgyz Republic” (2022).

The regulatory and legal framework of Kazakhstan, which regulates Islamic banking, was analysed based on the study of the Law of the Republic of Kazakhstan No. 2444 “On Banks and Banking Activities in the Republic of Kazakhstan” (1995), as well as Resolution of the Board of the National Bank of the Republic of Kazakhstan No. 144 “On the Establishment of Prudential Standards and other Mandatory Standards and Limits for Islamic Banks, their Regulatory Values and Methods for Calculating Prudential Standards and Other Mandatory Standards and Limits for Islamic banks” (2016), to determine the key prudential indicators required, their normative values, calculation methodology and other binding norms for Islamic banks set by the central bank of the country.

The study of the peculiarities of regulation of Islamic banks in Tajikistan was carried out based on the Law of the Republic of Tajikistan No. 1108 “On Islamic Banking” (2014). Analysis of Resolution of the Board of the National Bank of Tajikistan No. 87 “On Approval of the

Instruction "On the Procedure for Regulating the Activities of Islamic Credit Organisations" (2019), which details the regulatory mechanism in the above-mentioned law, made it possible to assess the procedure for regulating the activities of credit organisations using the basics of Islamic banking. To identify the requirements for services and products of Islamic banks and other credit institutions, Instruction No. 224 "On Operations Carried out Following Islamic Principles of Financing in Islamic Credit Institutions" (2017) was analysed. The procedure for creating the Committee on Islamic Financial Services, powers, and requirements for its members (2017) were analysed to assess the requirements for the committees on Islamic financial services, as well as their powers.

The use of generalisation and systematisation methods allowed us to identify both similar and different approaches to the regulation of Islamic banking in the above-mentioned countries. The statistical method of dynamics series was also used to assess the intensity of Islamic banking development in Kyrgyzstan and other Central Asian countries. In particular, deviations and growth rates of indicators characterising banking activity were calculated. In addition, the method of calculating the specific weight of indicators was used to calculate the share of Islamic banking in the overall structure of indicators of financial institutions in the banking systems of the countries studied.

Results

The Islamic banking is a banking system that is based on the principles of financial activities related to Islam and Shariah (Rahmayati, 2021). The main idea of Islamic banking is that all banking operations and services are carried out following Islamic morality. The important distinguishing features of the Islamic banking sector are the prohibition of interest (riba) and adherence to the laws of justice and morality in financial transactions.

Also, one of main instruments of the Islamic banking is Mudaraba, a type of interaction between the bank and the entrepreneur, where the bank provides funds and the entrepreneur manages these funds. Profits are shared between them in pre-determined portions while losses are borne by the bank. Another important transaction in the Islamic banking is Murabaha, which is a buying and selling agreement with a pre-determined profit for the bank. This type of transaction provides the opportunity to do away with the application of interest rates. Islamic finance also provides other innovative Shariah-compliant financial products such as Ijarah (leasing), Sukuk (Islamic bonds), and Islamic investment funds. The principles and products of Islamic banking have made it attractive to all those who seek to comply with Islamic norms in their financial transactions. However, as with any financial system, Islamic banking must be subject to regulation and require careful risk management.

The last few decades have been characterised by the expansion of Islamic finance in many countries, including the Caucasus and Central Asia, where the majority of the population is Muslim. It should be noted that many Central Asian countries, like Kyrgyzstan, have built a traditional financial model. The banking system of Kyrgyzstan has been actively developing in recent years and demonstrates positive dynamics in terms of the main indicators characterising this sphere, in particular, the total assets of banking institutions, loan portfolio and deposit base (Fig. 1, 2).

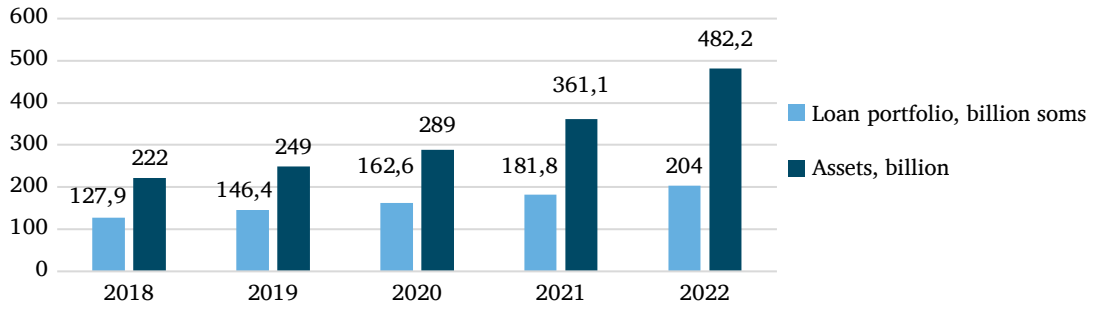

Figure 1. Assets and loan portfolio of banks in Kyrgyzstan for the period 2018-2022 (end of period)
Source: Annual report of the National Bank of the Kyrgyz Republic for 2022 (2022)

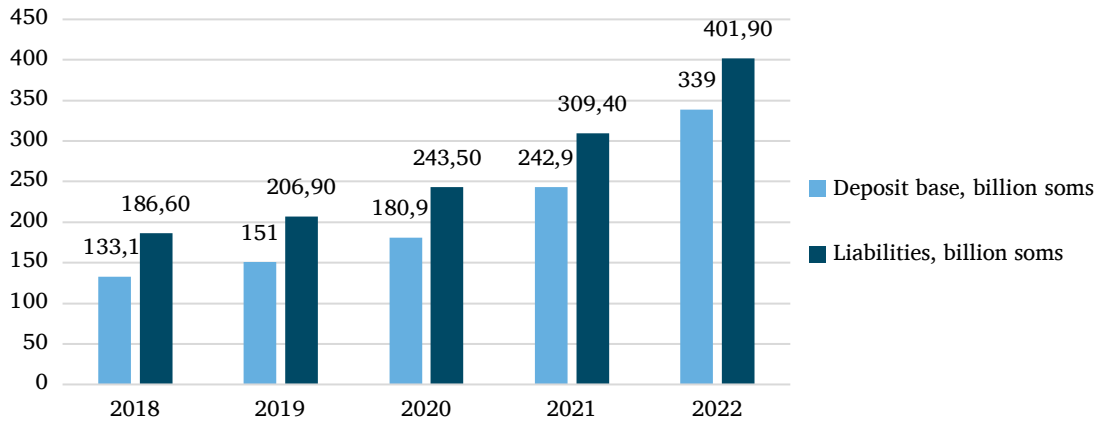

Figure 2. Deposit base and liabilities of banks for the period 2018-2022 (end of period)
Source: Annual report of the National Bank of the Kyrgyz Republic for 2022 (2022)

Over 2018-2022, the loan portfolio of banks increased by 59.5%. The growth of the loan portfolio in 2022 was due to the increase in the size of lending in the national currency by 19%, up to 156 billion soms. At the same time, the size of loans in foreign currency decreased by 5.3% and reached 48 billion soms. Assets of banking institutions increased by more than 117% during the period under study. Moreover, it should be noted that in 2022, relative to 2021, the increase in assets of the banking system was more than 33.5%, which exceeds the average annual growth rate by almost 12%.

Deposit activity of the banking system of Kyrgyzstan for the period 2018-2022 showed positive dynamics. Thus, during this period, the deposit base of banks increased more than 2 times. At the end of 2022, the volume of this indicator increased by 39.5%, relative to the previous year. Deposits increased both in national (by 29%) and foreign (by 54.6%) currencies. Liabilities also increased significantly in 2022, relative to 2021, by almost 30%. At the same time, the total value of the Islamic finance loan portfolio exceeded USD 3.3 billion, in the total banking sector (Fig. 3). On the other hand, the deposit base based on Islamic finance principles is less than USD 3.2 billion and corresponds to about 1.1% of the banking sector's deposit portfolio.

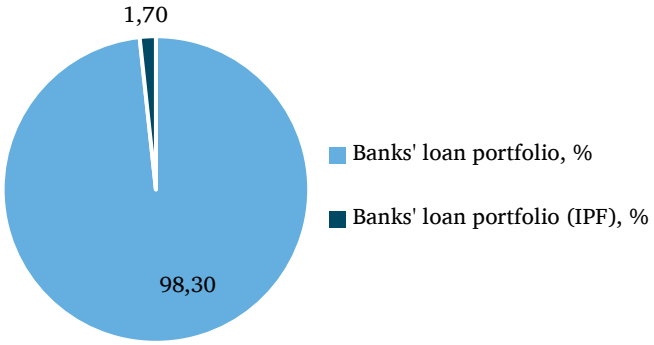

Figure 3. Share of loan portfolio of conventional banks and banks operating according to the principles of Islamic finance in Kyrgyzstan in 2022

Note: IPF – Islamic Principles of Finance

Source: compiled by the author based on the Concept for the development of the Islamic economic platform in the Kyrgyz Republic for 2023-2027 (2023)

As for non-bank credit financial institutions (NBCFIs), their total assets in 2022 compared to the previous period increased by 4.2 billion soms, which is 12.3%. The attracted volume of deposits of NBCFIs as of the end of 2022 totalled 3.4 billion soms, increasing by 1.8 billion soms compared to the figures of 2021. The loan portfolio of these institutions grew by 11.2% (by 3.1 billion soms) to reach 31.2 billion soms, with the share accounted for by PIF operations in 2022 accounting for 4.9% of the total loan portfolio of NBCFIs (Fig. 4).

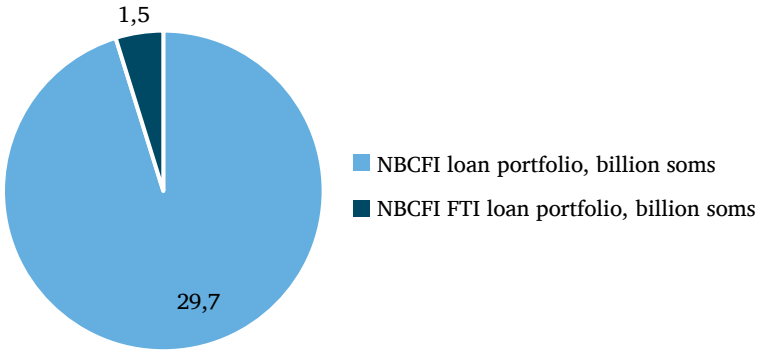

Figure 4. Structure of the loan portfolio of non-banking credit financial organisations operating under Islamic financing principles in 2022

Source: compiled by the author based on the Annual report of the National Bank of the Kyrgyz Republic for 2022 (2022)

Currently, the Kyrgyz Republic is a member of the Islamic Development Bank (IsDB), an international financial institution that aims to assist the socio-economic and financial development of states belonging to the Muslim world. The main mission of this institution is to raise the level of socio-economic development in the IsDB member states through involvement in the process of financing various projects and programmes.

The first Islamic bank in the Kyrgyz Republic started its operations in May 2006 after the IsDB, the Kyrgyz Republic and Eco-Islamic Bank signed a Memorandum of Understanding. From that moment, the process of introducing Islamic banking and Islamic finance in the Kyrgyz Republic began (Resolution of the Board of the National Bank…, 2006). It should be noted that Eco-Islamic Bank became the first bank not only in Kyrgyzstan but also a pioneer in Central Asia,

providing financial products based on Islamic principles of financing. Thus, the first goal and stage of the introduction of Islamic banking in the Kyrgyz Republic was the launch of a pilot project and the development of appropriate legislation for the functioning and further development of this sphere. The second step in the development of the principles of Islamic finance in the Kyrgyz Republic was the formation of a legal framework aimed at creating equal conditions for both classical and Islamic banking. This stage envisaged the harmonisation of legal acts regulating banking activity, civil law, and taxation.

In general, the second stage of development of the Islamic banking system has ended with the formation of a favourable legislative framework, which creates conditions for further increase in the number of financial institutions operating on the principles of Islamic finance. As part of the promotion of Islamic finance, the National Bank of the Republic is currently implementing a project to establish full-fledged Islamic banking in the Kyrgyz Republic with the support of the IsDB (Islamic Development Bank, 2022). The regulation of Islamic banking varies from country to country depending on legal, financial, and religious aspects. However, in most Muslim countries and countries with an Islamic banking sector, regulation is carried out within the framework of the relevant Shariah-compliant financial authorities. Thus, Law of the Kyrgyz Republic No. 93 "On Banks and Banking Activities" (2022) defines that together with classical banking, Islamic banking principles are applied. Islamic banking principles imply that banking activities and transactions should be carried out following Shariah standards, which are a set of rules for conducting financial and economic activities, following the principles developed and approved by international organisations that set standards for Islamic banking. The above-mentioned law and Resolution of the Board of the National Bank of the Kyrgyz Republic No. 2017-P-12/23/1-(NPA) "On Approval of the Regulations "On Licensing the Activities of Banks" (2017), define the possibility of Islamic banking in two forms (Fig. 5).

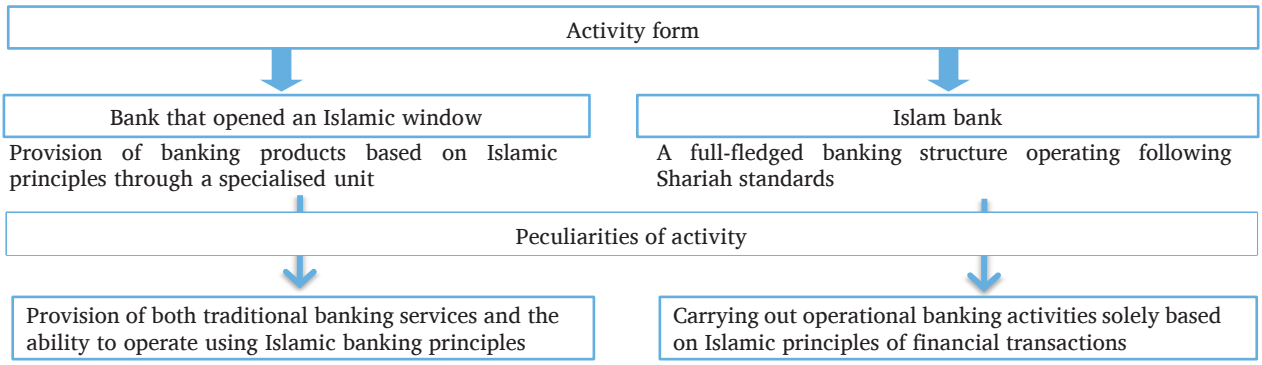

Figure 5. Specifics of Islamic banking activity organisation in Kyrgyzstan

Source: compiled by the author based on Law of the Kyrgyz Republic No. 93 "On Banks and Banking Activities" (2022) and Resolution of the Board of the National Bank of the Kyrgyz Republic No. 2017-P-12/23/1-(NPA) "On Approval of the Regulations "On Licensing the Activities of Banks" (2017)

In addition to the standard procedures and requirements for conventional banks, an Islamic financial institution must elect the members of the Shariah Council and its chairman. This body is responsible for aligning the bank's policies and standard contracts to the existing Shariah standards. The procedure for establishing the Shariah Council, its powers, functional features, tasks (as well as the body that appoints the members of the Council and determines their term of office) and the requirements for the members of the Council based on the principles of Islamic finance are specified in the bank's charter and confirmed by the minutes of the bank's constituent assembly on the election of the members of the Shariah Council and its chairman.

To obtain a licence to establish an Islamic bank it is also necessary to submit original or duly certified copies of the relevant documents to the National Bank. In addition to the standard information, these documents contain mechanisms to identify, calculate, control, and monitor all types of risks to which the bank may be exposed in the course of its activities, which involves the use of Islamic bases for financial transactions. It is also necessary to form guidelines for controlling and consistently minimising all risks that may arise from banking activities within Islamic standards. Members of the Shariah Board of an Islamic bank, as well as a commercial bank that has an Islamic window, members of the Management Board, chief accountant, and heads of structural units of the bank must meet certain requirements (Table 1).

Table 1. Special regulatory requirements to be met by members of the Shariah Council, members of the Board, chief accountant, and heads of structural subdivisions of an Islamic bank and a bank with an Islamic window in the Republic of Kyrgyzstan

Distribution	Requirements
Members of the Shariah Council	Diploma of higher education, knowledge, and skills in the field of banking law of Kyrgyzstan concerning Islamic principles of banking business. Documents confirming knowledge in the field of Islamic finance, one year of study experience in financial and credit institutions, or more than two years of experience in educational institutions or religious organisations with the skills to develop Shariah opinions. At least 1 member of the Board must be a resident of Kyrgyzstan and speak the state (or official) language.

Table 1, Continued

Distribution	Requirements
Chairman of the Shariah Council	In addition to the requirements for members of the Board, it is necessary to have a diploma of higher education in the field of Shariah in a profile that includes legal and/or commercial issues, as well as to have more than one year of work experience as a member of the Shariah Board or more than five years of study in banking structures, from one year of experience in a management position.
Managing director, head of structural subdivisions	Study experience of more than 2 years in the financial and credit system. A managing director who is not a member of the Management Board and only supervises the activities of the bank's structural units in highly specialised areas (IT, information security, legal support) should have at least two years of experience in the financial and credit system and/or have worked in institutions that specialise in the above-mentioned specifics for at least three years.
Deputy Chairman/ Member of the Management Board in charge of financing carried out based on Islamic banking	Documents or certificates that demonstrate knowledge of banking based on Islamic finance principles are required.
Chief Accountant	Knowledge of Accounting Standards of the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) specific accounting standards and relevant documents to prove the completion of a course or refresher training in the above areas at an educational institution with relevant permission/ licence from a recognised national body within five years before applying for approval of the nomination.
Head of Internal Audit Service	Possess information, and knowledge of the principles of Islamic banking and finance, know the standards (AAOIFI), and provide a document proving training in the principles of Islamic banking and finance.

Source: compiled by the author based on Law of the Kyrgyz Republic No. 93 "On Banks and Banking Activities" (2022) and Resolution of the Board of the National Bank of the Kyrgyz Republic No. 2017-P-12/23/1-(NPA) "On Approval of the Regulations "On Licensing the Activities of Banks" (2017)

Any commercial bank is authorised to establish an Islamic window to conduct business by the principles of Islamic banking and to provide necessary financing following the existing requirements. To carry out banking activities through the Islamic window. The Bank is required to obtain approval in the form of a licence to conduct business using Islamic banking principles and to provide financial products through an Islamic window. During the period from 2017 to 2022, the National Bank of Kyrgyzstan issued 5 licences to conduct financial operations on the principles of Islamic finance through the "Islamic window", one licence was returned in 2020 (Table 2).

Table 2. Statistics on the issuance of licences to conduct financial transactions on the principles of Islamic finance through the "Islamic window"

Year	Licence activity
2017	One license issued
2018	One license issued
2019	No operations
2020	One license revoked
2021	One license issued
2022	Two licenses issued

Source: compiled by the author based on the Annual report of the National Bank of the Kyrgyz Republic for 2022 (2022), Annual report of the National Bank of the Kyrgyz Republic for 2017 (2017), Annual report of the National Bank of the Kyrgyz Republic for 2018 (2018), Annual report of the National Bank of the Kyrgyz Republic for 2019 (2019), Annual report of the National Bank of the Kyrgyz Republic for 2020 (2020), Annual report of the National Bank of the Kyrgyz Republic for 2021 (2021)

As of March 2023, five commercial banks (one pilot bank, four classical banks that have opened an Islamic window) and 8 microcredit companies provide services on Islamic financing principles in Kyrgyzstan (Kyrgyzstan allowed the issuance…, 2023). To open an Islamic window, a bank must submit the required list of documents, and be adequately capitalised, according to the established requirements of the National Bank. It must also comply with economic and financial regulations and other requirements set by the National Bank of Kyrgyzstan. For Islamic banks following the instruction, which establishes the limits of financing, based on the principles of Islamic banking business, the norm of the maximum amount of risk per client is provided. Thus, the acceptable level of risk per borrower, which is not related to an Islamic bank, cannot be more than 20% for a non-bank customer and 30% for a bank (Resolution of the Board of the National Bank …, 2012).

There are also requirements to limit concentration risk. The risk for an Islamic bank is considered large if the total debt of one customer exceeds 10% of its net total capital. In this case, the aggregate amount of all large risks of an Islamic bank cannot be more than five times the size of the net total capital. For a bank that conducts operations through the Islamic window, the maximum exposure per customer is defined as the ratio of total liabilities per borrower to the bank's net total capital within the framework of conventional and Islamic banking and financing principles. In addition, Resolution of the Board of the National Bank of the

Kyrgyz Republic No. 2022-P-12/78-7-(NPA) "On Approval of the Regulations "On Economic Standards and Requirements Mandatory for Compliance by Commercial Banks of the Kyrgyz Republic" (2022) regulates the sufficiency (adequacy) of total capital, should be at least 12%, and 14% for systemically important banks, liquidity ratio should be at least 45%, and the limit of currency risk 15-20% of the bank's capital.

Although the first steps towards the introduction of Islamic principles of financing in the Republic of Kyrgyzstan were made back in 2006, after signing a memorandum with the IDB and the launch of the first Islamic bank in the country, the formation of the legal and regulatory framework for the regulation and regulation of this type of business is still underway. The National Bank continues to detail the regulatory mechanisms, supplementing the legal framework with its resolutions aimed at creating a transparent and efficient environment conducive to the development of Islamic banking. The country's banking system demonstrates positive dynamics of key indicators from year to year, but the share of operations based on Islamic principles of financing is still insignificant compared to the activities of other banking structures.

Law of the Republic of Kazakhstan No. 2444 "On Banks and Banking Activities in the Republic of Kazakhstan" (1995) defines that Islam is a structure of the banking system, carrying out banking activities following the licence issued by the authorised institution. Islamic banks are not members of the system of compulsory insurance (guaranteeing the return) of deposits, and accordingly, deposits of individuals in Islamic banks are not guaranteed by the system of compulsory deposit insurance. Islamic banks have the right to establish non-profit organisations in the form of joint stock companies, which can guarantee the return of deposits in case of bankruptcy of the financial institution.

The name of the banking institution must necessarily contain the phrase "Islamic bank". Conventional commercial institutions of the banking system according to the current regulatory framework cannot work with Islamic financial instruments (Shirazi *et al.*, 2022). In addition to the information specified by conventional banks, the charter of an Islamic credit organisation must have information regarding the purpose of the bank's activities, the functions of the tasks and powers of the council that controls compliance with Islamic principles of financing, as well as the mechanism of its formation and requirements for representatives of such a council. An Islamic bank is obliged to establish such a council, but the requirements for its members are not regulated by the legislation but are determined by the banking institution itself.

The legislation specifically provides requirements for the activities of an Islamic bank. In particular, the Islamic bank has no right to establish interest as a form of payment for services, to guarantee that the client will receive income on the investment deposit or will have the opportunity to return it, to finance (lending) activities that are aimed at the production or sale of tobacco, alcoholic beverages, weapons, armaments, ammunition, gambling business. Moreover, other areas of business, do not allow to finance the Islamic model of financial activity. An important factor in ensuring the development of Islamic banking in Kazakhstan is that the regulatory burden is about the same as for conventional banks, a very important step was the establishment of equivalence of the prudential standard of the current liquidity ratio in 2021 (Table 3).

Table 3. Comparison of the main prudential requirements for conventional and Islamic banks in Kazakhstan

Values	Ratio for traditional banks	Ratio for Islamic banks
Requirement for conservation buffer	2%	2%
Currency risk ratio	8%	8%
Operational risk ratio	8%	8%
Overall risk ratio	8%	8%
Bank's current liquidity ratio (k4)	30%	30%

Source: Compiled by the author based on the Resolution of the Board of the National Bank of the Republic of Kazakhstan No. 144 "On the Establishment of Prudential Standards and Other Mandatory Standards and Limits for Islamic Banks, their Regulatory Values and Methods for Calculating Prudential Standards and other Mandatory Standards and Limits for Islamic Banks" (2016)

In addition, the ratio of the risk level for a bank per borrower on its liabilities to the bank's equity capital cannot be more than 25%. The total aggregate risk exposure of a financial institution per borrower, with a share of more than 10% of the bank's equity, cannot be more than five times the bank's equity. For borrowers who are persons related to the bank by certain relations, may not be greater than the amount of the bank's equity capital. As of 2023, 2 full-fledged Islamic banks are operating in Kazakhstan: JSC Islamic Bank "Al Hilal" and JSC Islamic Bank "Zaman Bank". Al Hilal is one of the first Islamic banks in the CIS, it was established in 2010 and is a subsidiary of an international financial institution of the same name. Over the past few years, the average annual growth rate of Islamic banks in the Republic of Kazakhstan has been 18%, in contrast to the industry's average annual growth rate of 12%. Even though Islamic banks are developing intensively, their share in the segment does not exceed 0.2% (Alieva, 2023).

The formation of Islamic banking in Kazakhstan began in 2009, which is somewhat later than in Kyrgyzstan. A significant circumstance concerning the development of Islamic banking in Kazakhstan is the virtually identical regulatory and legal burden concerning classical financial institutions. However, even though the country is home to a significant number of people who profess Islam, and the financial products and services of Islamic banks adequately meet the actual needs of both the business sector and the majority of individuals, the share of Islamic banking operations remains insignificant.

The main legal act that determines the functioning and regulation of Islamic banks in Tajikistan is Law of the Republic of Tajikistan No. 1108 "On Islamic Banking" (2014). In

addition, other regulatory legal acts of the National Bank of Tajikistan supplement the regulatory mechanisms of Islamic banking in the country, in particular Resolution of the Board of the National Bank of Tajikistan No. 87 "On Approval of the Instruction "On the Procedure for Regulating the Activities of Islamic Credit Organisations" (2019), which defines the regulatory mechanism of Islamic credit organisations.

Thus, the law that establishes the organisational and legal conditions of Islamic banking business in the Republic of Tajikistan states that an Islamic bank is an Islamic credit institution operating following the licence of the National Bank of Tajikistan and carrying out banking activities on the principles of Islam. In addition, it also provides for the possibility of classical banks to provide services on the principles of Islamic finance through an Islamic banking window – a subdivision of a traditional banking institution, carrying out the whole range or a separate part of banking activities on Islamic principles (Law of the Republic of Tajikistan No. 1108…, 2014).

Credit institutions operating following the principles of Islamic finance are authorised to use the term "Islamic" in their name. The names and symbols of credit institutions utilising the principles of Islamic finance may only be used for Islamic banking activities. In addition to the traditional governing bodies, an Islamic credit institution is also managed by an Islamic financial services committee (The Procedure for creating the Committee…, 2017). Such committee regularly forms and sends information regarding the compliance of Islamic finance principles in an Islamic bank, to the Supervisory Board of the bank. The same regulation and the aforementioned Law on Islamic Banking, in addition to the Islamic Financial Services Committee, define the requirements for the personnel responsible for the management of the Islamic bank and the Islamic window (Table 4).

Table 4. Summary of the requirements for members and executives of the Islamic bank, according to the legal acts of Tajikistan

Distribution	Requirements
Member of the Islamic Financial Services Committee	Availability of higher education (economic or legal). Knowledge of banking (Islamic) legislation and Islamic finance (certificate, diploma, certificate). Experience of study on a speciality in the banking system for 3 years. Absence of debts to the Islamic bank more than 2% of the size of its regulatory capital. Cannot supervise legal entities with interests related to the Islamic bank. Must not be a relative of a member of the Supervisory Board. Cannot work in a conventional credit organisation or another Islamic credit organisation.
Members of the Board of the Islamic bank, chairman, deputies, chief accountant	Higher economic education, training in Islamic banking and at least five years of study experience in the banking system, of which at least three years in the position of the head or deputy head of the economic structural unit. It is prohibited to be an employee of other traditional credit institutions or Islamic credit organisations, to hold the same position, to reside in the Republic of Tajikistan
Branch manager and chief accountant, head of Islamic banking window, chief accountant of Islamic banking window	Higher education in economics, education in Islamic banking and three years of study in financial and economic organisations of the banking system or other higher education with 10 years of experience in banking. It is prohibited to be an employee of other commercial credit institutions or Islamic credit institutions. It is necessary to have an employment relationship only with this Islamic credit institution, as well as reside in the Republic of Tajikistan.

Source: compiled by the author based on the Law of the Republic of Tajikistan No. 1108 "On Islamic Banking" (2014) and The procedure for creating the Committee on Islamic Financial Services, powers and requirements for its members (2017)

The National Bank of Tajikistan has established eight prudential standards for Islamic credit institutions, which are detailed in Instruction No. 224 "On Operations Carried out in Accordance with Islamic Principles of Financing in Islamic Credit Institutions" (2017). These include regulation of the minimum amount of share capital, limitation of the amount of share capital in a form other than cash, limitation of the level of risk per customer, regulation of capital adequacy, regulation of current liquidity, limitation of the level of risk associated with foreign exchange transactions, regulation of the use of funds belonging to Islamic credit institutions for the acquisition of shares in companies, limitation of the volume of Islamic credit lines. According to this instruction, the minimum authorised capital for new Islamic banks must be 5 times higher than the minimum authorised capital for conventional banks using Islamic windows.

The regulations regarding capital consist of the capital adequacy ratio, which should be at least 12% and the ratio of the Islamic credit institution's regulatory capital to total assets, which should be at least 10%. The current liquidity ratio should be at least 40%. In terms of risk, the upper limit of risk per customer or aggregate of customers is set at 20%. The maximum exposure per borrower/related party customer is set at up to 2% of regulatory capital and the total exposure to related parties cannot exceed 10% (The Procedure for creating the Committee…, 2017).

Compared to 2022, in 2023 (as of September), the number of banking institutions operating under the principles of Islamic finance in Tajikistan has not changed. There were 1 full-fledged Islamic bank and 2 traditional banks with Islamic windows (State of the banking system…, 2022). The assets of Islamic credit institutions accounted for just over 1% (1.034%) of the total assets of the country's banking sector (Fig. 6). The share of the loan portfolio of Islamic credit institutions in the Republic of Tajikistan is less than 0.97%, and the share of Islamic banking in terms of deposit activity is only 0.56% of the total deposits of the banking system of the country.

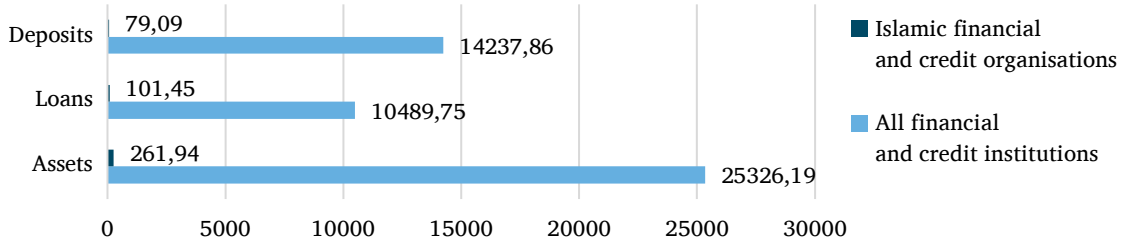

Figure 6. Ratio of the performance of Islamic credit organisations in Tajikistan to the banking system as a whole, at the beginning of 2023

Source: compiled by the author based on the Banking Statistics Bulletin (2022)

Based on the above, it is possible to note that the formation of legislative and regulatory support for the fundamental principles of regulation aimed at the activities of Islamic banking in the country began relatively recently after the adoption of a law specifically aimed at this area. The regulatory documents of the central bank of the country detail the regulatory mechanisms and procedures for banks to operate according to the principles of Islamic finance. As in the other above-mentioned countries, the volume of Islamic banking operations is significantly less than the volume of activities of traditional commercial banks in the country.

Discussion

The results of the study show that the regulatory policies for Islamic banking are designed to ensure compliance with Shariah (Islamic law), by financial institutions operating according to Islamic principles. Therefore, the opinion of A. Louhichi *et al.* (2020), who investigated the risks of Islamic banking regulation that these rules are set by the regulators in the respective jurisdictions and play a crucial role in regulating Islamic banks, is valid.

As E. Aslam and R. Haron (2020) argue in analysing the impact of governance on the performance of Islamic banks, the formation and adaptation of a legal framework specifically to regulate Islamic banking is of great importance. Regulatory policy provides a legal framework for the activities of Islamic banks, including the recognition of Shariah contracts and dispute resolution mechanisms, all these assertions are also supported by the findings of the study, which also shows that the legal regulation of Islamic banking by the state is based on the relevant law. For example, in Kyrgyzstan and Kazakhstan, Islamic banking is regulated by separate provisions of the laws on banking activities, while Tajikistan has adopted a special law that is aimed exclusively at the sphere of Islamic banking in the country (Mishchenko *et al.*, 2022).

It is worth noting that almost all aspects of the regulation of Islamic banks in Kazakhstan are provided for in the relevant section of the law "On Banks and Banking Activities in the Republic of Kazakhstan", which is supplemented by resolutions of the Central Bank of Kazakhstan, which establishes prudential standards for Islamic banks, methodology of calculations and other mandatory requirements for Islamic banks. In the Republic of Kyrgyzstan, the law establishes only basic principles and mechanisms for regulating Islamic banking in the country, and specific regulatory mechanisms are supplemented by many regulatory documents in the form of resolutions of the National Bank of the Kyrgyz Republic (Mostovenko, 2023). The same approach operates in Tajikistan, where in addition to a separate law, the activities of Islamic banks (credit organisations) are regulated by instructions and procedures approved by resolutions of the National Bank of Tajikistan.

An analysis of the regulatory and legal framework of the above-mentioned countries allows us to conclude that the possibility of Islamic banking in Kyrgyzstan and Tajikistan is provided in two forms – it is directly the establishment of an Islamic bank or the opening of an Islamic window by conventional banks. Unlike these countries, in Kazakhstan, the legislation does not provide for the possibility for classical banking structures to open such windows. That is, the legislation does not provide for the possibility for traditional banking structures to use Islamic financial instruments in their activities (Poyda-Nosyk & Markush, 2023).

Accordingly, Islamic banking is carried out exclusively by specially established banks according to the principles of Islamic finance. However, the law provides for the possibility of reformatting a conventional bank into an Islamic bank and establishes a mechanism for granting and reasons for refusal to issue a licence by an authorised state body to conduct a voluntary reorganisation of a financial institution in the form of transformation into an Islamic bank. Comparing these results with the study of N.S. Shirazi *et al.* (2022), it is possible to agree that this feature is one of the key factors that hinder the development and spread of Islamic banking in Kazakhstan.

Furthermore, it is possible to conclude that this regulatory component also affects the fact that Islamic banks in Kazakhstan are not members of the mandatory deposit guarantee system. Therefore, deposits of individuals in Islamic banks are not guaranteed by such a system, although such financial institutions have the right to establish non-profit organisations that can guarantee the return of deposits in case of bankruptcy of the bank. The same approach is provided for in the legal framework of Tajikistan. In contrast to Kazakhstan and Tajikistan, in the Kyrgyz Republic, conventional banks that have opened Islamic windows and operate according to the principles of Islamic finance are participants in the deposit protection system, which is provided for in the Law "On Protection of Bank Deposits". To obtain a licence, following Chapter 4, paragraph 37, subparagraph 21 of the regulation, Islamic banks are obliged to submit documents for participation in the Deposit Protection Fund (Resolution of the Board of the National Bank of the Kyrgyz Republic No. 2018-P-12/30-3-(BS)…, 2018).

As the results of the study show, the legislation of all the above-mentioned countries regulates the specifics of using the phrase "Islamic bank" in the names of banking institutions. In Kyrgyzstan, as well as in Tajikistan, only financial institutions that provide services based on the principles of Islamic finance have the right to use this phrase in their names. However, in Kazakhstan, financial institutions of the

banking system that provide Islamic banking are required to include the phrase "Islamic bank" in their names.

The results of a study obtained by S. Meslier *et al.* (2020) indicate that regulators often require Islamic banks to have Shariah supervisory or advisory boards. Such boards are composed of Islamic scholars and experts in Islamic finance who make recommendations on the compliance of financial products and operations with Shariah law. This is also confirmed by the results of the conducted research on the countries of Central Asia. Thus, in the Kyrgyz Republic, Kazakhstan and the Republic of Tajikistan, the legal and regulatory framework governing the specifics of the activities of institutions related to Islamic banking obliges the establishment of the Shariah Board (Kyrgyzstan), the Board on the principles of Islamic Finance (Kazakhstan) and the Committee on Islamic financial services (Tajikistan).

These structures are based on ensuring that the financial products and services provided by the banking institution comply with Islamic principles and Shariah law. However, the analysis of regulatory and legal documents shows that in Kazakhstan the requirements for candidates to the members of such councils are set by the Islamic bank itself and specified in the charter of the organisation, which differs from the norms of regulation of this aspect in Kyrgyzstan and Tajikistan. Thus, in Kyrgyzstan, based on Chapter 18, Section 4, the regulations defining licensing requirements for Islamic banks, regulate the requirements for representatives of the Shariah Board of the Islamic bank, as well as the chairman of such a council (Resolution of the Board of the National Bank of the Kyrgyz Republic No. 2022-P-12/78-7-(NPA)..., 2022). In Tajikistan, the regulations regulate the requirements for the members of the committee on Islamic financial services, in particular, Law of the Republic of Tajikistan No. 1108 "On Islamic Banking" (2014) and Resolution of the Board of the National Bank of Tajikistan No. 87 "On Approval of the Instruction "On the Procedure for Regulating the Activities of Islamic Credit Organizations" (2019).

As the analysis has shown, the general requirement for members of such bodies is higher education and knowledge necessary for study in the field. The requirements for work experience are also regulated, however, in Kyrgyzstan the requirements for this aspect are somewhat simpler, it is necessary to have one year of study experience in financial and credit organisations, or in educational institutions for more than two years, while in Tajikistan the required work experience in the banking system is at least 3 years.

It should be noted that the Kyrgyz Republic also has additional, more severe requirements for the Chairman of the Shariah Board, while in Tajikistan the requirements for such a position are not regulated. Compared to other countries, more demanding regulations are set for the management staff of Islamic banks in Tajikistan. In particular, the head of the bank and the chief accountant must have a higher economic education, working experience in the Islamic banking, work more than five years in banking structures, and it is necessary to work in a managerial position for 3 years. The legal documents of Kyrgyzstan provide only the need for two years of study in the banking system.

Besides the above-mentioned, as the comparative analysis shows, the legal and regulatory frameworks of Kyrgyzstan, Tajikistan and Kazakhstan provide prudential norms to which Islamic banks must comply, and in the case of Tajikistan and the Kyrgyz Republic also conventional banks with Islamic windows. The common and main prudential requirement is the rationing of the amount of authorised capital of Islamic banks and banks with Islamic windows. Also, concerning capital, Kyrgyzstan has additionally established requirements for the amount of the bank's equity capital. A common feature of prudential regulation is the establishment of capital adequacy parameters.

Thus, in Kazakhstan and Kyrgyzstan, the level of adequacy is set both by type of capital (core, Tier 1, Tier 2 capital) and depending on whether the bank is systemically important or not (Ikra *et al.*, 2021; Junaidi *et al.*, 2022; Abasimel, 2023). It should be noted that Kyrgyzstan has slightly more demanding regulations, but not significantly so, the difference is 1-2%. In Tajikistan, the capital adequacy of an Islamic bank is normalised by two indicators, the capital adequacy ratio and the ratio of regulatory capital to total assets.

Liquidity is also a common financial and economic indicator regulated by central banks (Makarchuk *et al.*, 2022). The Kyrgyz Republic and the Republic of Kazakhstan have set several liquidity ratios. In Kyrgyzstan, these are the general liquidity ratio, instantaneous liquidity ratio, short-term liquidity ratio, and in Kazakhstan, current liquidity ratio and term liquidity ratios (5 ratios). At the same time, Tajikistan's regulations regulate only one indicator – the current liquidity ratio for Islamic banks. Comparing this norm with identical norms of other countries, it is possible to conclude that Kyrgyzstan has a less demanding level of this indicator – 35%, while in other countries – 40% (Karim *et al.*, 2022; Riaz *et al.*, 2023; Hanic & Smolo, 2023).

In addition, the regulations of all three countries pay considerable attention to regulating the maximum amount of risk that can be allowed per borrower of an Islamic bank (Mishchenko *et al.*, 2022). In Kyrgyzstan it is 20% or 30%, depending on the type of borrower, in Kazakhstan, it is 10% or 25%, and in Tajikistan, it is 20% (Čihák & Hesse, 2010; Kettell, 2011; Beck *et al.*, 2013). Large exposures can also be defined and regulated. In addition to general prudential norms, specific requirements are also applied, such as the procedure for provisioning (Kyrgyzstan), capitalisation of banks to liabilities to non-residents (Kazakhstan), financial instruments based on Islamic principles, maximum permissible size of credit lines, guarantees and sureties provided by Islamic banks to their shareholders (Tajikistan).

To summarise the aforementioned information, it is possible to state that, as in the case of conventional banking, the regulation of Islamic banking has several general principles and approaches, which consider the principles of Shariah and are reflected in the regulatory and legal documents of Kyrgyzstan and other Central Asian countries, in particular Kazakhstan and Tajikistan. The specifics of the economy and the sphere of finance determine some differences in the legal regulation and, accordingly, the functioning of Islamic banking, but it should be noted that it is the legal and regulatory support and regulatory policy are the basis for the development and spread of Islamic banking within the financial system of the state.

Conclusions

The Islamic banking, as a type of banking activity, is based on the principles of Islamic Finance, formed on the foundations of Islamic law, which prohibits the use of interest and requires fairness and ethics in financial transactions. Since the Islamic banking operates based on Shariah law,

governments are seeking to develop specific standards and regulations to ensure compliance with these principles, especially in countries where the traditional banking system operates in parallel, such as Kyrgyzstan and other Central Asian countries.

A comparative analysis of legal and regulatory documents of Kyrgyzstan, Kazakhstan and Tajikistan shows the existence of both common and different approaches to legal support and regulation of Islamic banking. The common feature of legal regulation is the presence of law and complementary legal acts, by which the central banks of the countries detail the features of regulatory policy.

A Shariah Board (or a similar governing body) is a mandatory requirement for the establishment of Islamic financial institutions in Kyrgyzstan, Kazakhstan, and Tajikistan. Despite the existing differences in prudential regulations for Islamic banks in Kyrgyzstan, Tajikistan, and Kazakhstan, for the most part, they are both in essence and quantitatively quite similar. The key economic requirements in all the above-mentioned countries are to ensure a certain level of capital adequacy, liquidity, and maximum risk per borrower. A key distinguishing characteristic of the regulation of Islamic banks between Kazakhstan on the one hand, Kyrgyzstan, and Tajikistan on the other hand, is the lack of possibility for conventional banks in Kazakhstan to operate according to Islamic finance principles by opening Islamic windows. In addition, in Kazakhstan and Tajikistan, unlike Kyrgyzstan, where it is obligatory, Islamic banks are not participants in the mechanism of protection and guaranteeing of deposits.

Since the legal regulation of banks' activities following the principles of Shariah in Kyrgyzstan, Kazakhstan and Tajikistan has been formed relatively recently, Islamic banking is still at the beginning of its development, which is also evidenced by the insignificant volume of activities of banks operating on the principles of Islamic finance. Therefore, it is recommended to consider the possibility of expanding the range of competition, compared to classical banks, services and products provided to both enterprises and individuals, which will increase the level of demand and popularity of Islamic banking. Further research should be aimed at developing a legal mechanism for the practical implementation of this recommendation by making appropriate amendments to the current legislation of Kyrgyzstan, which regulates the Islamic banking.

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Conflict of interest

None.

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Порівняльний аналіз правового регулювання ісламського банкінгу в Киргизстані та інших країнах Центральної Азії

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Анотація. Правове регулювання ісламського банкінгу відіграє ключову роль у забезпеченні розвитку цього виду фінансової діяльності, особливо це актуально для країн, де переважає населення, що сповідує іслам, до яких належить Киргизька Республіка та інші країни Центральної Азії, зокрема Республіка Казахстан та Республіка Таджикистан. Тому мета дослідження полягає в тому, щоб проаналізувати та зіставити особливості нормативно-правової бази, яка забезпечує регулювання діяльності ісламських банків. У статті були використані методи правового аналізу, статистичного аналізу, групування, узагальнення, порівняння та абстрактно-логічного мислення. Інформаційною основою для здійснення цього дослідження послужили чинні закони та нормативно-правові акти Киргизстану, Казахстану та Таджикистану у сфері регулювання ісламського банкінгу. У дослідженні проаналізовано закони, що встановлюють засади функціонування та регулювання діяльності ісламських банків, а також нормативно-правові документи національних банків Киргизької Республіки, Казахстану та Таджикистану. У дослідженні виділено та проаналізовано ключові вимоги, встановлені до створення ісламських банків, ісламських рад, що діють при таких банках, а також до пруденційних нормативів для фінансових установ, які діють за принципами ісламських фінансів. Порівняльний аналіз нормативно-правових документів дав можливість сформувати як загальні, так і різні підходи, які використовуються для забезпечення та регулювання діяльності ісламських банків. Встановлено, що ключовою відмінністю правового регулювання діяльності ісламських банків у Казахстані, порівняно з Киргизстаном і Таджикистаном, є відсутність можливості для банківських структур поєднання традиційної банківської діяльності з діяльністю, заснованою на основах ісламської фінансової справи. Результати дослідження можуть бути використані органами, що формують законодавчу базу та здійснюють регулювання діяльності ісламських банків, суб'єктами, що функціонують у банківській системі, а також науковою спільнотою, що цікавиться забезпеченням правового регулювання ісламського банкінгу в Киргизстані та інших країнах Центральної Азії

Ключові слова: шаріатські засади фінансування; кредитні організації; фінансове законодавство; фінансова система; керування; державний контроль

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Legal instruments for deterring nuclear conflict in the current military and political geo-environment

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Abstract. The relevance of this study lies in the need to consider the legal instruments for deterring a nuclear conflict in connection with the crisis of nuclear safety and instability in the current military-political geo-environment. The purpose of this study was to examine international experience in the field of legal consolidation of prohibitive norms of deterrence necessary to prevent nuclear threats. The following general scientific and special methods were employed in the study: analysis, synthesis, deduction, induction, generalisation, as well as formal legal, legal hermeneutics, logical-legal, comparative legal, and historical-legal methods. The study examined the specialised international legal framework of regulatory documents in the field of nuclear safety, safe operation of nuclear facilities and nuclear deterrence, as well as nuclear deterrence strategies and their development depending on the geopolitical situation. Based on the results of the study, it is determined that the legal regulation of nuclear conflict containment is in the form of prohibitory orders consolidated in the relevant international treaties in the field of nuclear and radiation safety. The study highlighted the main international treaties positioned as legal means of nuclear deterrence. The interaction of "soft" and "hard" law in nuclear and radiation safety agreements was considered, as well as the specific features of consolidating such norms in municipal law. The study provided generalising conclusions in terms of nuclear deterrence strategies, specifically,

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a vision of a new concept in this area, based on technological superiority in non-nuclear means of repelling nuclear strikes and massive precision non-nuclear retaliatory strikes. It was also concluded that attention should be paid to the development of a new international treaty that would combine all the rules prohibiting the use of nuclear energy for military purposes, as well as the rules governing nuclear and radiation safety as integral components of global nuclear security. The practical significance of this study is that its materials can be used for further development of the concepts of non-nuclear or legal nuclear deterrence

Keywords: international security; preventive actions; legislative regulation; peaceful atom; mutually assured destruction

Introduction

In the current period of global security crisis caused by numerous conflicts: Russia's attack on Ukraine, Hamas' attack on Israel, the threat of China's invasion of Taiwan and Houthis' shelling of civilian and military vessels in the Red Sea, international nuclear and radiation safety is of particular importance. Nuclear power plants (NPPs) are defined by state legislation as high-risk facilities, and the system of regulatory, legal, and technical regulation in the field of radiation and nuclear safety is necessary for the normal operation of NPPs. However, nuclear power facilities are not the only source of this type of danger. The states of the nuclear club, including the United States, the Russian Federation (RF), the United Kingdom, France, People's Republic of China (PRC), India, Pakistan, the Democratic People's Republic of Korea (DPRK) and Israel, have nuclear arsenals that, if activated, would most likely lead to the destruction of most of the world's population. That is why it is so important to prevent and deter nuclear conflict in a clear and balanced manner, specifically in the form of prohibitive regulations consolidated in international treaties and conventions, the study of which will help to improve existing and create new legal instruments.

In the works of Ukrainian and European researchers, e.g., from such countries as France and Norway, the issue of nuclear safety is quite relevant. Attention should be drawn to the study by O. Taran *et al.* (2022), which was conducted on the topic of legal protection of nuclear power plants (NPPs) following international humanitarian law. Specifically, the study examines the situation on the territory of Ukraine, investigates the aspects of NPP protection from possible attacks during international armed conflicts following international humanitarian law and focuses on the fact that an attack on a NPP is prohibited, even if it can be classified as a military objective under international humanitarian law. L. Boron *et al.* (2023) examined the scope of special protection granted by international humanitarian law to nuclear facilities in the light of the nuclear safety crisis at Zaporizhzhia NPP (ZNPP), focusing on the unacceptability and illegality of the actions of the RF. Attention should also be paid to the study by B.D.E. Dando *et al.* (2023), which presents an innovative approach to ensure compliance with international law during the war in Ukraine using a seismographic method analogous to that used to monitor compliance with the Comprehensive Nuclear-Test-Ban Treaty. Specifically, the study notes that using the Malyn seismic station PS-45, it was possible to observe local explosions, noting that there were more factual attacks than reported in the media. Furthermore, it was possible to identify and separate different types of attacks and their corresponding seismic data, which, according to the researchers, once again confirms the effectiveness of using seismographic observations for monitoring purposes.

O. Sokolovska (2023) emphasises that nuclear safety requires global solutions, coordination of national measures, conclusion of international legal agreements, and active involvement of states in voluntary initiatives. Attention is also drawn to the need for a clear architecture of global nuclear and radiation safety, which should be comprehensive, standardised, based on trust and the desire for disarmament. However, a separate aspect of nuclear security, according to V.V. Myronenko (2022b), is the political side of the nuclear deterrence strategy, the decisive factor for which is technological superiority in weapons and methods of application, such as the US nuclear cruise missiles in the context of a hypothetical retaliatory strike. Thus, the increased emphasis on non-nuclear weapons also contributes to nuclear deterrence, acting as a psychological and strategic tool (Musin & Zheksekin, 2023). Nevertheless, O. Buryachenko (2023) notes that as a result of the conflict between RF and Ukraine, which disrupts the global security system, the issue of the use of nuclear weapons is gaining new importance and creates the possibility of a trend towards the proliferation of nuclear weapons in the world as a means of protecting sovereignty. The researcher also notes that the world is currently experiencing a greater security crisis than during the Cold War.

Despite the fruitful activities of researchers, there are still some unexplored aspects in the field of nuclear safety, one of which is the implementation of nuclear deterrence through the international framework of legal acts aimed at deterring nuclear aggression. Thus, the purpose of this study was to provide a full and comprehensive review of the legal instruments for deterring nuclear conflict and a detailed analysis of the legal acts that consolidate them.

Materials and methods

The following general scientific and special methods were used to investigate the specific features of deterring nuclear conflict using legal instruments in the current geopolitical situation in the world: analysis, synthesis, deduction, induction, generalisation, as well as formal legal, legal hermeneutics, logical-legal, comparative legal, and historical-legal methods. The study examined the main mechanisms used to prevent and deter conflict involving nuclear weapons. The study was conducted as follows: firstly, the soft and hard law regulations related to international nuclear and radiation safety were analysed; then, the nuclear deterrence strategies and stages of evolution of the global nuclear deterrence system were considered; the next step was to consider the regulations that are directly legal instruments for deterring nuclear conflict; then, attention was paid to more local and specific aspects, such as lesser-known regional conflicts and certain elements of the legal instruments in the field of nuclear safety and deterrence; finally, the materials obtained during the study were used in the final part of the study.

The study used general scientific research methods. The analysis was used to separate information on the specific features of legal regulation of nuclear conflict deterrence from general information on military and political

factors that influence the possibility of their occurrence. The synthesis was used to combine the specific features of consolidation of legal instruments aimed at international regulation of nuclear deterrence identified during the analysis. Deduction was used for a more in-depth investigation of the features of legal nuclear deterrence and nuclear and radiation safety identified in the synthesis process. Induction was used to form a common opinion on the specific features of legal nuclear deterrence, information about which was obtained during synthesis. The synthesis was used to structure all the features found regarding legal instruments of nuclear deterrence, information on which was obtained using other methods.

The study also used special research methods. The formal legal method was used to examine in detail the legal nuclear deterrence and the international legal instruments through which it is implemented from the perspective of international humanitarian law. The method of legal hermeneutics was used to investigate the practical application of international treaties and conventions, as well as to assess the factual legal situation in the world. The logical-legal method was used to review the provisions of international documents from the standpoint of legal logic and to find discrepancies or inaccuracies in them. The comparative legal method was used to compare various international treaties and conventions and to compare them. The historical-legal method was used to review the historical experience of legal nuclear deterrence.

During the study, international treaties, conventions, and other documents issued by organisations such as the International Atomic Energy Agency (IAEA) were reviewed and analysed in detail. The principal international treaties are as follows: the Treaty on the Non-Proliferation of Nuclear Weapons dated 07/01/1968, the Comprehensive Nuclear-Test-Ban Treaty dated 09/10/1996 and the Treaty on the Prohibition of Nuclear Weapons dated 07/07/2017. At the same time, the following documents were singled out in the field of nuclear and radiation safety: the Joint Protocol for the Application of the Vienna Convention and the Paris Convention dated 09/21/1988 and the Convention on Supplementary Compensation for Nuclear Damage dated 09/12/1997. The IAEA's Series of Publications, which is of a guidance nature, should be highlighted separately.

Results

Modern international humanitarian law is applied as the law of armed conflict (jus in bello) to regulate the laws and customs of war, and also includes customary law and rules consolidated in international treaties, including the Additional Protocol to the Geneva Conventions of August 12, 1949, relating to the Protection of Victims of International Armed Conflicts (1977). According to K. Kawai, this right defines the methods, means of warfare, and establishes that such a right has its limitations, which are recognised and accepted internationally. Nuclear deterrence implies that a state tries to intimidate an adversary with an effective nuclear counterattack to prevent it from taking military action. The legal assessment of the nuclear deterrence strategy first falls under Article 2(4) of the Charter of the United Nations (1945), which prohibits the "threat of force" (jus ad bellum), and then the "possible threat of force" (jus ad bellum). However, if the threat of "possible use" was not considered in deterrence, then such deterrence would be ineffective (Kawai, 2022). Notably, jus ad bellum are the legal conditions for the outbreak of war, while jus in bello are the rules of conduct of the belligerents.

Another example that also indicates the simultaneous application of both soft and hard law in the system of legal instruments in the field of nuclear safety is the Convention on Physical Protection of Nuclear Material and Nuclear Installations (1979). According to S. Burns (2022), the Convention is an example of hard law that establishes concrete security obligations that the parties agree to implement in their national programmes and implement in the legal framework. Specifically, Articles 3-6 of the Convention establish obligations to maintain nuclear security in the legal, transport, and law enforcement spheres, as well as to ensure the confidentiality of information relating to nuclear materials that must stay secret according to this Convention. Articles 9 and 10 of the Convention consolidate the inevitability of fair punishment for an offender who has committed, is suspected of having committed, or threatens to commit one of the acts set forth in Article 7 of the Convention. On the other hand, the Code of Conduct on the Safety and Security of Radioactive Sources (2004) is a non-binding code that calls for a political commitment by states to achieve a prominent level of security in the control of radioactive sources. Among other goals, the code calls for preventing the loss, unauthorised access, or illegal transfer of such sources, as well as helping to eliminate possible consequences of their potential use for malicious purposes (Burns, 2022). Thus, Chapter 3 of the Code sets out the basic principles of safe management of radioactive sources, and paragraphs 18 and 19 of the Code contain detailed recommendations on the necessary legislative initiatives to implement the basic principles in national legislation. The Code also contains Appendix 1, which proposes the division of nuclear sources into three categories, which are formed according to the maximum time of possible contact with a radioactive source without proper radiation protection means before irreversible injuries are sustained.

Legal instruments can also be used not only in the field of nuclear and radiation safety, but also to legally consolidate global principles of nuclear deterrence. Deterrence strategies in the era of nuclear weapons emerged as a response to their proliferation in the arsenals of states, however, according to K. Kang and J. Kugler (2023), the methods of achieving and maintaining long-term stability are characterised by specific features. The first concepts of nuclear deterrence emerged after the end of World War II. After observing the events in Hiroshima and Nagasaki, B. Brodie (1946) determined that the advent of nuclear weapons had changed the nature of warfare. The large-scale destruction of numerous military or civilian objects and enemy troops or population became possible in a few days, not years of total war. Brodie stated that Clausewitz principles of war have lost their force in the nuclear age, arguing that because of the "unacceptable" destructive potential of nuclear weapons, which he called "absolute", war with their use is not a continuation of politics by other means. A first strike should be considered an unacceptable means, and the only purpose of having nuclear weapons in the state's arsenal should be to threaten disproportionate massive retaliation against potential enemies. This initial position of deterrence, which included refraining from the use of nuclear weapons by the first party and massive retaliation (MR), was later expanded to include the principle of mutually assured destruction (MAD) (Brodie, 1959).

The first nuclear deterrence strategies were based solely on the nuclear superiority of the United States of America (US), but they were eventually revised due to the intensive growth of the Soviet Union's (USSR's) nuclear arsenal. With the proliferation of strategic nuclear weapons, the concept of MR loses its effectiveness and becomes inappropriate, leaving MAD as the only possible deterrence strategy. Apart from long-range bombers, mass production of intercontinental ballistic missiles and ballistic missiles for submarines began in the mid-1960s (Kang and Kugler, 2023). However, over time, the United States has moved to a strategy of extended deterrence and a format of cooperation with non-nuclear states in the form of the so-called "nuclear umbrella". According to D.Y. Lee (2021), it is the introduction of security commitments for allies that is a key part of the US initiative aimed at preserving international peace and preventing the global proliferation of nuclear weapons. South Asia became another region of nuclear confrontation in the second half of the 20th century. During the conflict between India and Pakistan, both countries acquired nuclear weapons. India became the first country in the region to obtain the status of a nuclear power, motivated by the desire to improve its international status. Pakistan has also developed a nuclear programme, but for reasons of defence against India. According to M. Sadiq and I. Ali (2023), both countries have stuck to the concepts of the Cold War and the MAD.

After the full-scale invasion of Ukraine by the RF on 02/24/2022, states have witnessed growing instability and complications in maintaining peace and stability in the world, specifically due to the threats of the terrorist country of Russia to use nuclear weapons in case of any intervention in the conflict with Ukraine and the creation of a critical nuclear security situation at the ZNPP occupied by Russian troops. The threats of nuclear strikes were directed primarily at NATO states as Ukraine's main potential allies, while the seizure of the ZNPP was aimed at putting pressure on Ukraine. The conditions of global challenges facing humanity require the restoration of cooperation and solidarity, but, according to V. Myronenko (2022a), there is a rapid disintegration of the modern international legal order and institutions that are designed to form coherent power-political relations at the global level. Notably, recent events in Yemen indicate a shift from international condemnation to a position of strength. Thus, Houthi attacks on civilian and military vessels since 11/19/2023 received a harsh response from the United States and the United Kingdom on 01/12/2024 (Strike on Yemen…, 2024). Therefore, the unsuccessful diplomatic efforts of the United Nations (UN) have led to an intensification of the stagnation of international relations, which has primarily resulted in radicalisation in the resolution of armed conflicts. This approach differs from the general trend of recent decades towards a looser security framework. Relations among the nuclear powers are the tensest, as they understand the potential of their weapons of mass destruction better than anyone else. An asymmetric response to the proliferation of nuclear weapons in the arsenals of states is the development of non-nuclear precision weapons and a global missile defence system (MDS).

It is also worth paying attention to the statistical data on nuclear weapons in the world, as presented in the table below (Table 1).

Table 1. Number of nuclear warheads in the arsenals of the world's states

State	Number of nuclear warheads	Strategic warheads deployed	Trend
RF	5977	1588	Probably increasing stocks
USA	5428	1644	Slowly reducing stocks
PRC	350	-	Stocks increase
France	290	280	Stocks are stable
United Kingdom	225	120	Stocks increase
Pakistan	165	-	Stocks increase
India	160	-	Stocks increase
Israel*	90	-	Stocks are stable
DPRK	20	-	Stocks increase

Note: *unofficial assessment by experts, as Israel has never openly declared either the presence or absence of nuclear weapons
Source: based on infographics from the analytical portal "Slovo i Dilo" ("Nuclear club": How…, 2022)

The information presented in the table suggests that most nuclear-armed states are not ready to give up increasing the number of nuclear weapons. Of the 8 official nuclear club states, only 2 are reducing or not increasing their stockpiles. However, only 4 of the 8 nuclear-armed states have deployed strategic warheads, i.e., can use them in a short time. These states should be considered the key actors in global nuclear deterrence.

As nuclear weapons are a matter of global concern, the legal framework for nuclear deterrence instruments goes beyond the internal laws and regulations of individual countries and includes international agreements, conventions, and treaties. According to T.A. Kukharenko (2023), this international legal framework is aimed at preventing the proliferation of nuclear weapons and promoting disarmament. International nuclear security legislation includes a range of treaties, such as the Convention on the Physical Protection of Nuclear Material and its amendments, as well as various soft law instruments, such as the IAEA Nuclear Security Series. According to Y. Fukui (2024), these legal documents act as guiding principles, determining the course of policy and ensuring an appropriate level of protection for various nuclear facilities. Soft law is usually characterised by flexibility and normativity, but in the area of nuclear security, assessment is mainly carried out through instruments that are properly implemented by the relevant regulators or operators, and regulators are given the power to order operators to comply with binding instructions at the level of municipal law. When the provisions of such documents are incorporated into municipal law, they function as "hard" laws,

despite their definition as international "soft" law. This unique approach allows for effective control over nuclear security while providing sufficient flexibility to adapt different nuclear facilities to the conditions necessary for their protection.

The key legal instrument in the context of international nuclear safety and deterrence is the Treaty on the Non-Proliferation of Nuclear Weapons (1968), which was ratified by 191 countries. According to this treaty, each non-nuclear-weapon state party undertakes to refrain from accepting nuclear weapons and not to manufacture or acquire them. The Treaty also recognises the right of states to develop nuclear energy for peaceful purposes, subject to safeguards and inspections by the IAEA, which was established on 07/29/1957. Notably, the treaty contains outdated provisions: despite the possibility of amending it following Article 8 of the Treaty, Article 9 of the Treaty stipulates that ratifications and instruments of accession are deposited with certain governments, including the USSR, which collapsed over 30 years ago. Article 7 of the Treaty is also questionable, stating that it does not limit the right of states to regional agreements to ensure the complete absence of nuclear weapons on their territories. The question arises as to why such an international treaty immediately stipulates the absence of mechanisms to influence individual states, which effectively relieves the main regulator in this area, i.e., the IAEA, of any responsibility for inaction or ineffective actions. Other significant international treaties related to nuclear weapons are the Comprehensive Nuclear-Test-Ban Treaty (1996) and the Treaty on the Prohibition of Nuclear Weapons dated 07/07/2017. Article 2 of the Comprehensive Nuclear-Test-Ban Treaty states that each State Party undertakes to refrain from inducing, encouraging, or taking any part in the conduct of any nuclear weapon test explosion or any other nuclear explosion. This treaty absolutely prohibits all nuclear weapons testing. However, clause 6 of Article 6 of the Treaty states that the provisions of this Article shall not prevent the implementation of the provisions of Articles 4 and 5 of this Treaty. Again, questions arise as to the logical structure of an international treaty, since it is the correct interpretation of it by all member states that is the key to its implementation. Article 1 of the Treaty on the Prohibition of Nuclear Weapons (2017) states that each State Party undertakes never, under any circumstances, to develop, test, produce, manufacture, acquire, possess or stockpile nuclear weapons or other nuclear explosive devices. This treaty completely prohibits the possession and use of nuclear weapons. Although the preamble to the document uses the phrase that the signatory states are "deeply concerned" about the humanitarian consequences of any use of nuclear weapons, the overall text of the document is sharper and clearer. It should be emphasised that all these treaties are major steps for the international community towards limiting and further abandoning nuclear weapons (Kukharenko, 2023). According to O.V. Buriachenko (2023), it is the defence against the means of self-destruction created by humankind itself that should occupy the principal place in the global security system of this century. Thus, the countries possessing nuclear weapons should abandon them in favour of creating a "global nuclear umbrella" to ensure stability in nuclear security.

Notably, the entry into force of the Treaty on the Prohibition of Nuclear Weapons in January 2021 has led to an intense discussion on positive obligations under Article 6 of the Treaty. However, according to C.P. Evans (2023), while the issue of aid to victims under Article 6(1) has received considerable attention, the obligation to restore the environment under Article 6(2) is still understudied. Specifically, there is considerable uncertainty as to the scope of activities covered by the application of the rules of treaty interpretation set out in the 1969 Vienna Convention on the Law of Treaties.

A separate aspect of legal norms in the field of nuclear safety and deterrence is legal instruments aimed at bringing to justice those responsible for radiation contamination. Among the main documents in this area are the Paris and Vienna Conventions on Nuclear Liability, which were merged in 1988 by the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention (1988). Additional negotiations led to proposals for amendments to the Vienna Convention and the creation of a new Convention on Supplementary Compensation for Nuclear Damage (1997), which entered into force in 2015 and strengthened compensation for nuclear damage to property and/or health. In 2004, the parties to the Paris and Brussels Additional Conventions concluded negotiations on their revision, but the changes did not enter into force until 2022 and focused on expanding the list of mandatory prevention and recovery measures. Even though the Chornobyl accident became a catalyst for research and improvement of the liability system, the implementation of changes took time (Burns, 2022). It should also be noted that, despite the tragic experience of Chornobyl, peaceful nuclear energy is being used quite actively in the world (Table 2).

Table 2. Countries with the largest number of nuclear reactors

State	Number of nuclear reactors
USA	92
France	56
PRC	55
RF	37
South Korea	24
India	19
Canada	17
Ukraine	15
United Kingdom	11
Japan	10
Total in the EU	104
Total in the world	411

Source: based on infographics from the analytical portal "Slovo i Dilo" (How many nuclear…, 2022)

Having analysed nuclear deterrence strategies, trends in missile defence and precision-guided weapons, the concept of a new nuclear deterrence strategy should be presented. The concept is based on non-nuclear massive retaliation (NMR), combined with technological superiority in the field of high-precision missile and anti-missile weapons of all ranges. It is non-nuclear missile weapons deployed on the territory of a state or allied states that should be capable of effectively shooting down nuclear missiles, as well as of devastatingly retaliating against all detected enemy launchers to prevent a second attack as a key element of NMR. Along with extended deterrence and the introduction of the "global nuclear umbrella", the NMR should gradually replace the nuclear doctrine with the technological one, placing all responsibility for the use of the nuclear arsenal solely on the party that has not adhered to the nuclear disarmament policy. The most appropriate document to legally consolidate this strategy is the NATO Strategic Concept, as NATO has become the point of unification for such nuclear-armed countries as the United States, France, and the United Kingdom, which are among the four countries with deployed strategic warheads and, as already mentioned, are among the main actors of global nuclear deterrence.

Discussion

Considering the issues of international humanitarian law and state policy in the field of nuclear weapons, attention should be paid to the study by S. Fetter and Ch. Glaser (2022). They note that about a decade ago, a new interpretation of the law of armed conflict (jus in bello) emerged in the US nuclear strategy. This was partly conditioned by a series of major international conferences aimed at investigating the humanitarian consequences of the use of nuclear weapons, which led to the agreement among a group of countries that the use of nuclear weapons would lead to catastrophic consequences and unacceptable suffering of military personnel or civilians and thus violate the principles of the law of armed conflict (jus in bello), which generally coincides with the opinion of B. Brodie (1946). This rationale became a key one in efforts to ban nuclear weapons, specifically in the Treaty on the Prohibition of Nuclear Weapons of 07/07/2017, which was signed by 86 countries and 59 states parties at that time. The researchers focus on the US response to this treaty, which stated that it does not target civilians as such, but that such a position would not lead to targeted efforts to avoid using its nuclear weapons in a way that would avoid or minimise the consequences for the enemy's civilian population. It is impossible to disagree with the inadmissibility of the use of nuclear weapons, although the development, construction, and testing of such weapons are irresponsible and criminal acts. Following the laws and customs of war (jus in bello), plans and decisions to use military force must be guided by the principles of necessity, distinction, proportionality, and precaution to avoid attacks on civilians and objects, while ensuring the right to counterattack military objectives, including strategic nuclear command and control facilities. However, the very creation of nuclear weapons contradicts the principle of necessity, since in the history of its existence, fortunately for the entire world, there has not been a single case of active use of this type of weapon, although enormous funds have been spent on its production and maintenance. In line with the growing international support for the Treaty and other initiatives to stigmatise nuclear weapons, the United States, in compliance with international law, has begun to move towards changing its nuclear arsenal policy to ensure that its strategic plans for the use of nuclear weapons are fully consistent with the Treaty (Shopina *et al.*, 2020). This also once again characterises the United States as the only actor in the global nuclear deterrence that has enough determination to take voluntary steps in the field of nuclear and radiation safety.

Considering the tension between NATO and Russia, and the statements of the latter's propagandists about the total destruction of certain states in Europe, some researchers propose a more humane and balanced nuclear deterrence strategy (Yankovskyi, 2023). Thus, S.D. Sagan (2023) has formulated the following principles of nuclear deterrence aimed at improving the fairness and effectiveness of the US nuclear deterrence policy in the future. Firstly, it is imperative to break the link between the mass murder of innocent civilians and nuclear deterrence, instead recognising military forces and the enemy's top political leadership as the only legitimate target. Secondly, the use or planning of nuclear weapons against any target that can be destroyed or neutralised by conventional weapons should be abandoned. The third principle is to avoid belligerent threats of retaliation against civilians, even in response to hostile attacks on their own or allied civilians. The fourth principle emphasises cooperation in good faith towards nuclear disarmament as the ultimate purpose of nuclear deterrence. However, based on the results of the study, the United States is the only country that can adopt such a strategy, as it is the only one that continues to voluntarily reduce its nuclear arsenal. Notably, the proposed principles can be applied only to long-term strategies, as their implementation is impossible in the near future due to the global security crisis.

Considering the issue of international humanitarian law, the RF violated international law by annexing the Crimean Peninsula and violating the principle of the use of force and numerous treaties protecting the sovereignty and territorial integrity of Ukraine, which, according to K. Kawai (2022), is entitled to self-defence following international humanitarian law and the right to demand that Russia be brought to justice. Agreeing with this opinion, it should be added that the RF should also be restricted in international institutions where its representatives are present, as someone who does not respect any opinion of the international community should be restricted in the platforms where they can express their own. However, according to A. Mahmutovic (2023), the possession of nuclear weapons by a state may complicate the international community's response. The International Criminal Court is investigating the situation in Ukraine and will prosecute individuals for international crimes, but it is the national courts that play a crucial role in ensuring justice, as they are factually the primary means of recording violations of international criminal law by collecting evidence and making corresponding court decisions (Pilyukov *et al.*, 2023). Apart from the International Criminal Court, the International Court of Justice operates in the field of international humanitarian law, which, according to C. Greenwood (2022), has made a considerable contribution to the development and interpretation of international humanitarian law, working both within its advisory jurisdiction and within the jurisdiction of dispute resolution. The Court's judgments and advisory opinions in various cases have

contributed to the regulation of armed conflicts, demonstrating interaction with other bodies of international law, and have influenced the development of non-binding rules of international humanitarian law. However, it is impossible to bring a state to international responsibility if it does not consider international law itself.

One of the possible solutions to local nuclear security crises is the voluntary disarmament of small nuclear-armed countries, such as Islamic Republic of Iran (IRI) or the DPRK, but first of all, this requires a decision of the military and political leadership of these countries, which can be achieved through diplomacy or sanctions (Yefimenko *et al.*, 2023). According to N. Fahmy (2022), ensuring the non-proliferation of nuclear weapons and disarmament in the Middle East is a prerequisite for ensuring security and stability in the region. The resumption of negotiations on the Joint Comprehensive Plan of Action (2015) – the nuclear agreement signed in Vienna on 07/14/2015 between the IRI and the P5+1 group – could be the first step in creating a nuclear-weapon-free zone in the Middle East. This zone is a key element of the new security architecture in the region and should be based on two main principles: disarmament and conflict resolution based on international law. Admittedly, the creation of a safe zone would be a significant event, but international treaties create a dilemma: on the one hand, the technological development of the Middle East will allow the region to overcome the depression, but the presence of nuclear programmes in countries such as IRI calls into question the exclusively peaceful use of nuclear energy and creates the possibility of nuclear proliferation. However, considering the policies of the nuclear club countries, it can be concluded that most of them are also not ready for nuclear disarmament and curtailment of nuclear programmes, especially now, when even partial disarmament of one of the states, such as the United States or Pakistan, will be perceived as weakness, not a desire to reduce tension, and will lead to greater activation of aggressor states.

Apart from the immediate danger from the use of nuclear weapons, one should not forget about the environmental damage that can be caused by peaceful nuclear facilities. Thus, J. Liu and L. Shen (2022) consider the use of nuclear energy for peaceful purposes, which is of great importance for ensuring energy security, reducing greenhouse gas emissions and achieving sustainable development without harming the environment. Taking the PRC as an example, as a country with a considerable number of active nuclear power plants, effective accident prevention is the most effective way to ensure nuclear safety (Abaikyzy *et al.*, 2020). However, even considering environmental protection, the PRC currently has only two laws dedicated to nuclear safety – The Act of the People's Republic of China on Prevention and Control of Radioactive Pollution (2003) and The Nuclear Safety Law of the People's Republic of China (2017). This does not fully satisfy the requirements of nuclear safety oversight, which S. Burns (2022) would most likely agree with, but the development of nuclear safety legislation reflects the historical process of development and application of nuclear technologies in China. Nevertheless, the PRC's nuclear safety legal system still has shortcomings, such as the absence of a law on nuclear energy, which requires measures to further develop and improve this system, as well as to eliminate conflicts of concepts in legislative acts, such as the difference between the concept of "nuclear safety" in the Law of the PRC on Nuclear Safety and its concrete content. Furthermore, according to researchers, the development of PRC's nuclear safety legislation will not only promote the development of the nuclear industry but will also contribute to the effective prevention of radioactive contamination incidents and sustainable environmental protection. Agreeing with the researchers' opinion, it should be added that PRC is at the stage of development and formation as a leading state in its region, and given the historical past of this country, it still has many internal issues, which cannot but affect the quality of nuclear and radiation safety.

Thus, the issues of nuclear and radiation safety are undoubtedly one of the most pressing issues of today and are very popular among researchers, but the interaction of nuclear power facilities and the environment, nuclear deterrence strategies and legal instruments to deter nuclear conflict are still its understudied aspects.

Conclusions

Thus, having considered the issue of implementing nuclear deterrence using legal instruments that are especially necessary for maintaining nuclear and radiation safety in the current period of the global security crisis, the principal instruments were identified. These include international treaties such as the Treaty on the Non-Proliferation of Nuclear Weapons, the Comprehensive Nuclear-Test-Ban Treaty, and the Treaty on the Prohibition of Nuclear Weapons. When signed, ratified and/or implemented into national legislation, these legal acts become an effective means of regulating international and national legal relations, deterring nuclear safety crises and ensuring the normal functioning of nuclear energy. However, some of the provisions of these treaties are outdated, inaccurate or, on the contrary, reflect a new, more logical and clear approach to drafting the text of an international document.

Thus, attention should be drawn to the following specific features of these treaties identified in this study, which are that the Treaty on the Non-Proliferation of Nuclear Weapons in Article 9 mentions the government of the USSR, Article 7 lacks clear definition of implementation mechanisms; in the Comprehensive Nuclear-Test-Ban Treaty, clause 6 of Article 6 contains a violation of the logical structure of the document. Generally, the Treaty on the Prohibition of Nuclear Weapons has the clearest wording among the mentioned treaties. The study also examined nuclear deterrence strategies, which resulted in the concept of a new MR strategy based on NMR, the main elements of which are technological superiority in non-nuclear missile weapons, advanced deployment of missile defence systems, and complete rejection of nuclear response to a nuclear attack. Thus, if the concept is incorporated into NATO's Strategic Concept, the bloc's possible response to a nuclear attack will not go beyond international law and will contribute to the establishment of a "global nuclear umbrella". It is important to note that there is a requirement to enhance and strengthen the regulations outlined in these international treaties through a new regulatory document.

This article should provide a clear and rigorous definition of liability for any violations of nuclear and radiation safety. Drafting of such a treaty and a more thorough analysis of these existing treaties may be the topics of further research and, at the same time, will serve to develop the concepts of legal nuclear deterrence.

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Conflict of interest

None.

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Правові інструменти стримування ядерного конфлікту в сучасному воєнно-політичному геосередовищі

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Анотація. Актуальність цього дослідження полягає в необхідності розгляду правових інструментів стримування ядерного конфлікту у зв'язку з кризою ядерної безпеки та нестабільністю в сучасному військово-політичному геосередовищі. Метою дослідження є вивчення міжнародного досвіду у сфері правового закріплення заборонних норм стримування, необхідних для запобігання ядерним загрозам. У дослідженні використовувалися такі загальнонаукові та спеціальні методи: аналіз, синтез, дедукція, індукція, узагальнення, а також формально-юридичний, юридичної герменевтики, логіко-юридичний, порівняльно-правовий та історико-правовий методи. Предметом дослідження стала спеціалізована міжнародно-правова база нормативних документів у сфері ядерної безпеки, безпечної експлуатації ядерних установок та ядерного стримування, а також стратегії ядерного стримування та їх розвиток залежно від геополітичної ситуації. За результатами дослідження визначено, що правове регулювання стримування ядерних конфліктів здійснюється у формі заборонних приписів, закріплених у відповідних міжнародних договорах у сфері ядерної та радіаційної безпеки. У дослідженні виокремлено основні міжнародні договори, які позиціонуються як правові засоби ядерного стримування. Розглянуто взаємодію "м'якого" та "твердого" права в угодах з ядерної та радіаційної безпеки, а також особливості закріплення таких норм у муніципальному праві. Дослідження надало узагальнюючі висновки щодо стратегій ядерного стримування, зокрема, бачення нової концепції у цій сфері, що базується на технологічній перевазі у неядерних засобах відбиття ядерних ударів та масованих високоточних неядерних ударів у відповідь. Також зроблено висновок про необхідність приділити увагу розробці нового міжнародного договору, який об'єднав би всі норми, що забороняють використання ядерної енергії у військових цілях, а також норми, що регулюють ядерну та радіаційну безпеку як невід'ємні складові глобальної фізичної ядерної безпеки

Ключові слова: міжнародна безпека; превентивні дії; законодавче регулювання; мирний атом; взаємно гарантоване знищення

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Preventing international threats in the context of improving the legal framework for national and regional security

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Abstract. Geopolitical challenges and potential integral threats have put the issue of developing strategies and tools to counter risks and strengthen security on the agenda. The purpose of the study is to conduct a comprehensive assessment of the areas of criminal law development in the context of increasing national and international security. The study uses generalisation, analysis, systematisation, and deduction methods. The study assesses the impact of the Russian invasion of Ukraine, which, using the example of specific illegal actions in Latvia, revealed real risks for the national security of Latvia and the Baltic region. The paper considers crimes related to the violation of bans on participation in armed conflicts, organisation and conduct of military-tactical exercises, and the inadmissibility of assisting a foreign state in an act aimed against another state. Ultimately, such a review reveals the importance and real threat of these criminal offences to state security and identifies approaches for improving legislation in this area. The crime of "espionage" is investigated, which ultimately outlines the structure of such an illegal act and its danger. Considerable attention is given to the examination of torture as a crime against humanity, which is done based on national and international legislation. As a result, the evolution of this criminal offence is considered, various approaches to defining this phenomenon are evaluated, sadism as a particular form of torture is investigated, a classification of similar acts is created, and various types of consequences that could be caused during such a crime are formulated. The practical value of the study lies in the possibility of law enforcement agencies using the findings to form effective strategies for developing modern political and legal tools to prevent international threats

Keywords: criminal offence; armed conflict; torture; espionage; war crimes; liability

Introduction

The objective change in the criminal environment worldwide is particularly due to the invasion of Ukraine by the Russian Federation. Considering both the geographical location of the aggressor and historical aspects and years-long attempts to influence neighbouring countries, state policies once again have to deal with such international entities as the Russian Federation or the HAMAS movement in Palestine. Therefore, the relevance of exploring the legislative base regulating this sphere of social relations is determined by the need to build a reliable security system, including in Latvia.

The research problem lies in phenomena that create a dangerous situation at the national and international levels.

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Thus, the proliferation of illegal weapons, the international character of crime, driven by the development of cyber technologies, and the increase in drug trafficking in Europe and other regions – all these are just a small part of crimes that collectively create a real threat to the security situation in the world, requiring a quality legal mechanism aimed at effectively regulating such large-scale illegal activities (Leshchenko, 2023).

C. Mölling and M. Schütz (2023) noted that the Russian war could also occur in a broader territory, and the Baltic countries might be at risk. In addition, the authors considered alternative paths that the North Atlantic Treaty Organization (NATO) might take in the future and the position of Germany in this situation. However, this study does not address the issue of legal regulation in the Baltic countries, while in the context of the general theme of the conducted investigation, it is necessary to emphasise that, according to part two of Article 80 of the Criminal Law of the Republic of Latvia (1998), acts against the territorial integrity of the state, committed using violence or as part of an organised group, are recognised as grave crimes against the state.

The study of K. Dupate *et al.* (2023) was also significant, in which the compliance of the Latvian legislative base and international legal standards in countering hate crimes and hate speech was analysed, and the practical implementation of state policy by law enforcement agencies regarding the responsibility of individuals and groups for such crimes was evaluated. Furthermore, the authors of the study were focused predominantly on the national level and did not consider this illegal phenomenon in the context of international trends and changes. Regarding the study by A. Else (2021), the author argued that terrorist attacks cause not only the loss of lives but also provoke violence and have a substantial impact on the economy of the state, as fighting them requires substantial resources. The study was aimed at defining terrorism, its reflection in international and Latvian law, and analysing criminal liability for terrorism in Latvia. However, it did not conduct a comparison with the legislation of other countries, in particular, Lithuania and Estonia, as this study did. It is also worth mentioning the paper by A. Nevera *et al.* (2022), which analysed a 30-year experience of Lithuania, Estonia, and Latvia in the development of national systems of legal cooperation in criminal matters. Special attention was given to the implementation of the EU secondary legislation and the cooperation system with third countries. The authors analysed national and international legislative provisions to identify positive and negative experiences, but the issue of criminal liability itself was not considered.

V. Zahars and V. Upeniece (2021) evaluated the legislation of the Republic of Latvia regarding restrictions on illegal participation in armed conflicts and acquiring "undesirable" military experience. The study analysed the provisions of relevant legal acts that limit service in the armed forces of other countries and participation in armed conflicts. Still, unlike this paper, V. Zahars and V. Upeniece (2021) did not explain the danger of violating this prohibition. Further, the study conducted by R. Rublovskis (2021) is of significance in this area, focusing on the repercussions of the COVID-19 pandemic and the challenges it introduced. The author argued that the importance of the role of states in the international and domestic arena would increase, yet some states might not be able to ensure their security and respond to global threats of various origins. Nevertheless, the problem of implementing mechanisms to avert such dangers in R. Rublovskis's (2022) work remained unstudied.

Therefore, to solve the stated problems, the purpose of the study is to conduct a comprehensive assessment of the vectors of the evolution of the criminal law base in the field of strengthening national and international security.

Materials and methods

In the course of the study, the method of systematisation was used, which facilitated the identification of interrelations between different elements of national and international security mechanisms regulated by relevant regulations. This made it possible to understand how national and international legislation envisages solving the problem of preventing threats. On the other hand, the deductive method was used to analyse the legal norms regulating the sphere of national and regional security, which allowed for conclusions to be drawn, in particular, about the danger of espionage to state security.

In close interaction, methods such as generalisation and analysis were applied, through which information related to security issues and related criminal offences was collected and evaluated. Thus, critical analysis revealed the strengths and weaknesses of the existing theoretical base, which was consequently converted into identified key concepts, trends, and areas for the development of the relevant legislation.

The studies of national and foreign authors covering the areas of legislative development in various countries in the field of criminal offences related to potential risks to the security situation were examined. As a result, after assessing their validity and methodological accuracy, the impact of the geopolitical situation in the world on the latest innovations in the legislation of Latvia and European countries, which concerned measures aimed at averting international threats, was determined. Latvian regulations governing criminal legislation were the basis of the conducted study, as they identified all the modern areas and mechanisms for averting international threats. The key document was the Criminal Law of the Republic of Latvia (1998), which defined all the considered criminal offences. Changes over the last decade in this document showed which priority areas of development were determined by the legislator, and, based on the content of the law, the compositions of criminal offences that threaten state and regional security were investigated.

For a more thorough interpretation of the legal base in narrow regulatory spheres governed by a large number of regulations in Latvia, the specialised National Security Law (2000) was used, thanks to which, in particular, the essence of the prohibition on organising military-tactical training was specified. In the context of comparison with the practice of other countries, the Criminal Code of the Republic of Lithuania (2000) and the Penal Code of the Republic of Estonia (1992) were examined. The considered codes were applied within the framework of creating a classification of torture as a criminal offence.

The study examined materials published by the State Security Service (2023). In addition, the judicial practice of the Human Rights Committee (1993) and Decision of the Plenum of the Supreme Court No. 1 "On the Application of Criminal Law in Cases of Intentional Infliction of Bodily Harm" (1993) was used. Considerable attention was given to exploring the Convention against Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment (Convention against Torture and Other Cruel…, 1984); European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2002) and the Geneva Conventions (1949). These international agreements allowed for the investigation of international mechanisms for ensuring the security situation.

Results

Analysis of the Latvian and international security regulatory framework

Like other Baltic countries, Latvia has experienced a long and complex history of statehood formation, marked by geopolitical instability and external threats. Consequently, strengthening security is one of the key priorities of the national policy of Latvia. This priority is reflected in the legal framework of the country, which is based on the Constitution of the Republic of Latvia (1922), defining Latvia as a democratic republic and proclaiming the protection of sovereignty, territorial integrity, and independence as the highest values.

To implement this provision, there is a constant need to improve current legislation and adapt it to new requirements, with a critical role played by the Criminal Law of the Republic of Latvia (1998), which establishes responsibility for all crimes that may pose an international and national threat. According to the provisions of the document, a global threat is any action or situation that may disrupt national security, sovereignty, territorial integrity, or interests of the country at the international level. Thus, criminal offences falling under such a definition are those listed in Chapters 9 (Crimes against humanity and peace, war crimes, and genocide), 9.1 (Crimes related to terrorism), and 10 (Crimes against the state). Among such crimes, the Criminal Law specifically establishes liability for participation in and financing of armed conflicts, terrorism, espionage, prohibition on service in the armed forces or law enforcement agencies of another state, incitement to acts that violate the country's sovereignty, and others (Shopina *et al.*, 2020).

Focusing on specific types of crimes that could be considered potential international threats, it is essential to emphasise that the Criminal Law of the Republic of Latvia (1998) currently provides for liability for violations of prohibitions related to participation in armed conflicts, their financing, as well as recruitment, training, and directing of individuals to such zones. It should be noted that such actions, which unlawfully interfere with the independence or territorial integrity of another democratic state, can also have a non-military nature and be considered equally harmful forms of assistance, as they are aimed at unlawfully influencing another state and increasing international instability (Byers, 2000). Any support for such actions signifies acceptance of a violent or forceful model for conflict resolution, which conditionally normalises the aggressor's approach, diminishes the importance of territorial integrity and sovereignty of democratic states, and shapes a supportive or indifferent attitude of the public towards geopolitical developments.

Special attention during the study was paid to exploring the concept of terrorism, to which Criminal Law of the Republic of Latvia (1998) devotes a separate chapter 9.1 titled "Crimes Related to Terrorism". According to the provision of Article 79.1, terrorism should be considered a socially dangerous act or actions if they are committed with the intent to intimidate the population or to influence the state, its institutions, or international organisations to engage in a particular behaviour or refrain from it, or to cause harm to the interests of the state, its population, or international organisations. However, in addition to liability for terrorism, the mentioned chapter also establishes prohibitions on financing, justification, organisation, promotion, and commission of travel to prepare and perform any actions of a terrorist nature. The application of these norms is directly related to the political situation at the national and regional levels. Therefore, it is essential to consider the official position of Latvia, which states that the Baltic countries support global cooperation in combating terrorism, recognise its global nature, and are aware of the threat to peace, security, and human rights worldwide, which, in particular, is the reason for engaging in the exchange of intelligence information and cooperation with international partners to prevent any potential threats (Cupika-Mavrina, 2024).

Regarding war crimes, according to Article 74 of the Criminal Law of the Republic of Latvia (1998), they consist of criminally violating the customs and laws of war. These norms are enshrined in numerous international conventions and, depending on where they are adopted, relate to two branches of international humanitarian law – Hague Convention (1907) and Geneva Convention (1949). Among others, Article 3 of the Geneva Convention (1949) specifies the prohibition of violence to life and person, including murder of all kinds, mutilation, cruel treatment, and torture. The latter was the subject of a substantial part of the study, which, while not explicitly enshrined in a separate provision of Criminal Law of the Republic of Latvia (1998), is mentioned in a large number of provisions as a mandatory or possible element of other offences, which indicates its actual threat to national security. Overall, the prohibition of torture is absolute both in peacetime and in conditions of armed conflict, which is equally relevant at the national and international levels of legislation. Worldwide, torture is even more prevalent in informal closed institutions, the number of which is increasing, especially in the context of armed conflict and the conditions of detention, which are objectively difficult to control (Shevchuk *et al.*, 2022).

The term "torture" in Article 1 of the Convention against Torture and Other Cruel (1984) "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" is understood to encompass all acts of violence aimed at intentionally causing severe physical or mental pain to another person for purposes such as obtaining information or a confession, inflicting punishment, or intimidating or coercing that person or a third party into specific actions. Furthermore, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (European Convention for the Prevention of Torture…, 2002) stipulated that no one should be subjected to torture or other inhuman or degrading treatment that may undermine their dignity. However, the most important role of the document was in establishing a special European Committee tasked with monitoring compliance with restrictions on such punishments or treatments. Therewith, judicial practice recognises that "torture can be characterised by actions that, to the knowledge of the perpetrator, involve the repeated or prolonged infliction of severe pain or suffering on the victim" (Decision of the Plenum…, 1993).

Torture as a form of committing a criminal offence can be implemented in several forms of criminal acts. For a

comparison of legal practices in Latvia, the Penal Code of the Republic of Estonia (1992) and the Criminal Code of the Republic of Lithuania (2000) were used, forming the basis for the classification of torture proposed by the authors (Table 1).

Table 1. Classification of torture as a form of committing a criminal offence

Type of torture	Its interpretation
Torture committed as part of crimes against humanity and war crimes	Poses a threat to the individual's life, health, and freedom, as well as other fundamental rights.
Torture as a permanent criminal offence	Can cause various bodily injuries, which can be classified depending on the consequences as severe, moderate, or minor.
Torture committed during military service	Poses a threat to the order of military service and the health of the injured serviceman. The criminal offence is manifested in the violent behaviour of a serviceman towards another serviceman when at least one of them (or both) is on military duty.
Other criminal offences related to torture	Mainly relate to criminal offences where torture is indicated as a qualifying feature (Article 135 (Serious bodily harm), paragraph 6 of Article 138 of the Criminal Code of Lithuania (minor bodily harm)). Furthermore, crimes in the field of justice (for example, for forcing to provide false explanations, conclusions, or translations to a parliamentary investigative commission if they are related to torture).
An act of torture (torture or torment)	Characterised by keeping the victim in conditions that are life-threatening or can cause serious illness, intentional repeated or prolonged, or intentional single physical impact on the victim, causing him severe physical pain or mental suffering.
Animal torture	Associated with cruel treatment of an animal, as a result of which it died or suffered mutilation, or was tortured.
Torture involving violence or particular cruelty, manifested in the threat of physical abuse (psychological violence) or physical violence – beating, torment, torture	Special cruelty is associated with psychological or physical effects on the victim when, within the framework of a criminal offence, the victim is subjected to physical pain or mental suffering through torture, mockery, infliction of various degrees of bodily harm, and expressing real threats of various kinds.

Source: developed by the authors based on the Penal Code of the Republic of Estonia (1992), the Criminal Code of the Republic of Lithuania (2000), and the Criminal Law of the Republic of Latvia (1998)

Another threat to security on the international level is espionage, which is defined in accordance with the Criminal Law of the Republic of Latvia (1998) as a crime that can be committed directly when a person cooperates with a foreign state, its organisation, or its intelligence services, and indirectly when several persons are involved in the process of espionage. This corresponds to one of the main tasks of the special services of many hostile states, which is to create an illegal information network aimed against any democratic state and its internal and external security to give a foreign state an advantage in influence and the preparation of plans for the escalation of military conflict.

Directions for improving the regulatory framework in the field of strengthening security

In the context of criminal offences that threaten international and national security, it is important to strengthen the threshold of criminal liability for war crimes, crimes against humanity, and the justification of genocide. According to the Human Rights Committee (1993), Holocaust denial has become one of the main manifestations of anti-Semitism in some countries. The Committee recognises that the real purpose of those who deny genocide or crimes against humanity is not to discuss historical facts but to incite hatred against a national or ethnic group.

Planning and committing these crimes often involve organised groups, government officials, and responsible employees of a company (enterprise) or organisation, and they can also be committed using automated data processing systems. For these crimes, a sanction in the form of long-term imprisonment can be applied, which reduces the chances of continuing criminal activity even after serving a short sentence. Thus, State Security Service (2023) of Latvia appealed to the prosecutor's office with a motion to bring to criminal responsibility three leaders of the organisation named "DVS Urantia" for justifying and glorifying the war unleashed by the Russian Federation in Ukraine and inciting national and interethnic enmity. During the investigation, the State Security Service (2023) found that the leaders of the organisation deliberately and systematically disseminated an ideology aimed at justifying and glorifying the military aggression of Russia in Ukraine and inciting hatred against Ukrainians, citizens of Ukraine, Jewish and Romani people. The leaders of the organisation promoted their ideology at esoteric events organised by this institution, in electronic correspondence, on social networks Facebook and Telegram, and on several specially created websites. The organisation had several dozen members who regularly participated in its events.

Violence against civilians in a combat zone, the looting of the deceased or wounded on the battlefield, and raiding, robbery, and plundering of individual regions are common occurrences during the war (Pilyukov *et al.*, 2023). As recent experience indicates, looting is widespread in the occupied territories among the military formations of the Russian Federation in Ukraine. The criminal practice of occupiers became widely known after the large-scale theft of washing machines by Russian soldiers, which received substantial publicity in the media (The Russians continue..., 2022). Changes to the Criminal Law of the Republic of Latvia (1998) provide for adding a new article 77.4 titled "Assistance to a foreign state in actions aimed against another state" to the legal framework. This legal norm establishes

criminal liability for actions aimed at assisting an individual, foreign state, or foreign organisation with the purpose of undermining or threatening the territorial integrity or political independence of a democratic country. The necessity of such a norm can be justified because the aforementioned actions contravene international law, normative legal acts, and treaties binding on the Republic of Latvia. Such behaviour threatens international peace and order and is particularly harmful, as the accused effectively supports the aggressor state (Nagan & Atkins, 2001).

Latvia intends to supplement the Criminal Law with a new section entitled "Violation of the prohibition on organising, conducting, and participating in military-tactical training" (95.2), which provides for criminal liability for organising or conducting military-tactical training and for participating in such events (Draft Law of the Legal Affairs Committee …, 2020). Currently, the general prohibition on organising or conducting training for military-tactical tasks and participating in such events is provided for in section 3.2 of the National Security Law (2000). The deliberate development of collective combat skills creates the ability to perform specific tasks, including movement in terrain (formation, obstacle overcoming) and on the battlefield (fire and movement, mutual cover) and promptly resolve typical tactical situations. Similarly, practising military-tactical tasks such as attack, defence, and combat support develops skills and abilities such as capturing buildings, populated areas, releasing hostages, or, conversely, delaying the enemy, holding territory, structures, as well as auxiliary functions of these tasks – organised reconnaissance of an object or terrain. The competence to organise such training should belong exclusively to state authorities delegated with specific tasks in national security, defence, public order, and safety (Paparinskis, 2003). The acquisition of skills and abilities by a free and unrestricted circle of persons can create favourable conditions for the appearance of military formations, particularly increase the likelihood of committing violent criminal offences, including terrorist acts, and also worsen the overall security situation in the country and threaten the foundations of the state and the democratic order.

The government of Latvia has emphasised that the establishment of a solid legal and managerial framework is an essential tool in the fight against terrorism, as the ideology of terrorists and extremists in all its manifestations poses a severe threat to the common values enshrined, among others, in the Charter of the United Nations and Statute of the International Court of Justice (Charter of the United Nations…, 1945). Thus, the development of a legal mechanism in counteracting terrorism should be based on close cooperation grounded in the principles of the rule of law and human rights. To respond to these potential challenges, a comprehensive legislative framework has been developed to use legal instruments specifically designed to counteract and prevent phenomena such as violent extremism and terrorism (Cupika-Mavrina, 2024).

An important addition to criminal law is Article 85.1 of the Criminal Law of the Republic of Latvia (1998), which establishes criminal liability for organising or directing espionage. According to this provision, espionage can be defined as the illegal handling of state secrets, undisclosed information, or other information owned by a foreign state or foreign organisation. It may consist, firstly, in the illicit collection of or provision to another country or organisation of information that is a state secret, directly or through another person; secondly, in the illicit collection of undisclosed information to provide it to another country or organisation, directly or through another person; or, thirdly, in the illegal collection or transmission to a foreign special service, directly or through another person, of other information at its request. Therefore, espionage can be described as relations between a handler (organiser, leader, or intelligence resident) and their agent (a person who spies, i.e., collects or transmits information), in which the former sets tasks, conducts training, conspiracy, and creates channels for the transmission of intelligence information, while the latter takes measures to obtain it (Dzhuzha *et al.*, 2023). In the intelligence mechanism, such as in a special service, the role of the handler (resident) is to create the widest possible network of agents, where one organiser or leader of the intelligence system maintains connections with several usually unrelated spies.

The organisation and functioning of espionage are particularly harmful because they advance the interests of a foreign state and its special services on a large scale, as the perpetrators of this activity ensure the operation of entire agent networks. Similarly, modern intelligence tools significantly enhance the quality, systematic nature, and scale of espionage, thereby creating a threat to the increasing intensity of espionage and particularly exacerbating the negative consequences for national security interests (Dunayev *et al.*, 2024). The actions of an individual spy may be impulsive, intermittent, and even random, but the intelligence handler operates continuously, systematically, and purposefully. Therefore, the multi-level support system, infrastructure, and set of conditions created by the handler can serve a whole range of recruited agents.

Thus, the study evaluated the existing legal framework in the national and regional security field, which allowed identifying the most dangerous and essential threats, considering the formed legal doctrine and the geopolitical situation in the world. In particular, attention was paid to those areas that have undergone changes in Latvian and international law in recent years. The need to improve legislation is due to the importance of adapting legal norms to a level capable of maintaining a stable security situation. In addition, the examination of criminal liability for crimes such as torture, espionage, violations of the prohibition on organising, conducting, and participating in military-tactical training, and others showed that the danger of such phenomena is a real international threat that requires effective legal mechanisms to counteract it.

Discussion

A comprehensive examination of the issue required a deep investigation and analysis of relevant studies directly or indirectly related to the issues of the role and status of legal mechanisms existing in Europe and other countries for preventing and countering threats that pose risks to national and international security. In this context, a detailed analysis of the theoretical developments of various authors was necessary to comprehensively assess the approaches of different legal systems to the challenges faced by states in the modern world.

The study emphasised that the problem of terrorism is one of the most dangerous threats to national and international security. This specificity was the leading motive of the study by H. Hasibuan and L. Tijow (2024a). The research results highlighted how effectively national legislation can

respond to local trends and how it adapts to the evolving threats of terrorism. The analysis allowed for a deeper understanding of the effectiveness of legal approaches in preventing and countering terrorism. Special attention was paid to ensuring a balance between security and human rights to ensure the compliance of law enforcement actions with human rights principles. The authors revealed the essence of legal approaches to counterterrorism, noting the challenges and achievements in improving legal policy and practice in the future and examining the interaction between international and national law in combating terrorism in Indonesia. Nevertheless, this study did not analyse the international legal framework, while H. Hasibuan and L. Tijow (2024b) explored the legal and institutional frameworks, emphasising the importance of international cooperation in preventing terrorism. The study combined normative legal analysis with an assessment of secondary data to deepen understanding of the role of government in countering terrorism in Indonesia. The findings of the study showed the importance of cooperation between relevant institutions and international cooperation in the fight against terrorism. However, these papers did not cover the issue of the interrelationship of related criminal offences with terrorism, which is also an important aspect of understanding how legal mechanisms can contribute to preventing such threats.

In the study by M.T.B. Salameh *et al.* (2022), the concept of national security of Arab countries, its elements and challenges, as well as regional threats and their role in influencing the national security of Arab countries, were presented. The authors assumed a direct positive correlation between the absence of the concept of Arab national security and the growth of regional threats in the region. The study was based on an analysis of international systems to reveal the internal nature of regional international relations in the Arab regional system, examine the interactions in the region's structure, and analyse the behaviour of countries in the region in the context of international relations. Thus, the study focused on examining the overall system of legal security of the mentioned region rather than on investigating specific threats to national security in the form of criminal offences, as in this study. In conclusion, the authors noted that the concept of Arab collective security continues to face ambiguity in defining and specifying its aspects and components.

The concept of crimes against humanity was discussed by B. van Schaack (2012), who noted that this term encompasses various actions that are criminal under international law when committed in the context of a widespread and systematic attack against the civilian population. It is difficult to agree with such an interpretation; as stated in this study, torture is a type of crime against humanity that includes any actions aimed at deliberately causing moral or physical pain to another person, while the criteria mentioned by the researchers overly narrow the scope of this crime, which can negatively affect the imposition of punishment for such criminal offences. On the other hand, the researcher reasonably noted that crimes against humanity are becoming an increasingly important element of the toolkit of any international prosecutor, as they can be used in relation to acts of violence that do not fall under other international criminal prohibitions, such as war crimes or genocide.

The joint publication by M. Slobodchikoff *et al.* (2021) brought together different viewpoints and directions to provide a comprehensive understanding of the future of the Atlantic Alliance. Relying on their scientific experience and the analysis of academic experts and practitioners, the researchers offered a modern view of NATO and outlined its future course. This book combines the talents and experience of former American and European senior officials, operational officers, and researchers who have explored NATO in the context of preventing threats at the international level, allowing them to understand the realities of contemporary transatlantic security issues. The authors paid considerable attention to future opportunities and challenges, including the dynamically changing regional and global security environment, the rapidly evolving, destructive hybrid actions, cyber technologies, and the improvement of the legal course in this area. The book demonstrates the role of NATO in mitigating global military actions over the past decades, but its overview nature leaves the question of threat prevention unanswered.

The geopolitical situation in Israel has been a challenge since the founding of the country in terms of creating mechanisms to prevent international threats. In his study, C.D. Freilich (2023) asserts that in practice, the national security strategy of Israel has been highly successful, and it has become a stable and prosperous state, the existence of which is no longer in doubt. The author emphasised the importance of recognition of Israel as an independent country by Arab countries and the presence of a substantial number of diplomatic relations, a dynamic economy based on high technology, and a global cyber capability. The article examined the legal and political essence of terrorism as a crime in the context of Israel and explored the Palestinian issue, which is currently the main challenge hindering the security and future of a predominantly Jewish and democratic state. The study highlighted the need for a legal framework to regulate the situation in the country, considering the situation, but did not consider the international context and the practice of other countries with experience in this area.

The next comprehensive analysis in this area was made by W. Kitler (2023), who argued that each country should ensure the necessary conditions for creating an organisationally integral and legally defined system of national (state) security capable of effectively responding to challenges and threats. This thesis confirms current trends in the legislative sphere of Latvia aimed at strengthening and improving responsibility for crimes that pose a danger to the state. On the other hand, the authors examined specific aspects of Polish legislation, which demonstrated the clarity of regulating key aspects of the functioning of the state in the face of external threats. From the content of the study, it is also clear that the term "external threat" corresponds to the concept of "international threat", which was discussed earlier. The authors also laid the foundations for defining the organisational structure and principles of operation of the state apparatus, which are essential components of the national security system.

R. Ranjan's (2023) research focused on hostilities in the east of Ukraine to highlight possible violations of international humanitarian law. The author described war crimes such as looting, the use of prohibited weapons, and allegations of torture and unlawful detention. The researcher shed light on his own view of the impact of war crimes on the chances of resolving regional conflicts and establishing peace. However, the main drawback of the study was the consideration of war crimes without analysing the limits of responsibility for the offences committed, which, in the

context of this study, was done to explore preventive measures against international threats. The author also emphasised that the consideration of war crimes is necessary for a sustainable resolution of the crisis and the preservation of international law norms. Nevertheless, in R. Ranjan's (2023) study, the concept of "war crime" was insufficiently considered from the standpoint of international norms.

The specificity of torture was considered in the study by H. Carey and S. Mitchell (2023), where the authors examined the impact of the well-known terrorist events of September 11, 2001, which influenced the application of laws on national security and counter-terrorism worldwide. Thus, the researchers emphasised that despite the large number of ratifications of the Convention against Torture and its Optional Protocol, there are still differences between states regarding what constitutes lawful use of torture. This observation aligns with the establishment of the European Committee mentioned earlier, which was created by the Council of Europe to oversee compliance with the prohibition. It underscores the importance of having a single interpretation by an international body with the authority to address such matters. Through typological analysis, the authors also concluded that a substantial number of states, despite ratifying international treaties, only partially comply with the prohibition on the use of torture.

In summarising all of the above, it can be argued that the modern world faces a large number of international threats that pose a danger not only to certain countries or regions but are a real problem on a global scale. The current and effective resolution of potential and real threats requires a comprehensive analysis of various criminal offences and legal systems, considering and relying on the practice of different countries and international organisations that regulate the relevant sphere of social relations.

Conclusions

This study determined that the unstable geopolitical situation in the world and the Baltic countries, particularly in Latvia, is a key reason for the constant need to improve the legal base in the field of strengthening security and preventing international threats. A more detailed discussion of the issue required the examination of specific areas of legislation. As a result, issues regarding the necessity of increasing responsibility within the framework of national regulation for violations of established prohibitions through participation in armed conflicts, recruitment, training, and sending individuals to territories of armed conflicts in other countries were examined. Moreover, it was established that in the process of escalation of military conflicts, professional espionage activities, their organisation, and management are increasingly conducted.

In the study, the phenomenon of terrorism was investigated, and based on the relevant legislation, its definition was formulated, and all legally defined forms of activities that could lead to responsibility in the context of such activities were identified. Considering the special threat of terrorist activity to national and regional security, the study tracked the official position of the Latvian government on this phenomenon, ultimately demonstrating a vector towards international cooperation and systematic improvement of legal tools in this area. The analysis also delved into the concept of "war crimes", highlighting the nature of torture as a form of a criminal offence against humanity. It was found that in Latvian legislation, torture is primarily considered an element of other crimes. A classification of tortures was created, which should aid further research by scientists in comparison with other similar criminal offences, and also serve as an additional source for the legislator regarding issues of reforming the legal base in this area. The examination of the practices of the Human Rights Committee and the State Security Service of Latvia led to the conclusion that the justification and heroization of crimes against humanity and military aggression have become widespread in the country and the world, and therefore strengthening legal sanctions for such activities must be an appropriate step towards this negative trend. Equally important is that the study focused on legislative novelties in the field of security strengthening, including amendments to the Criminal Code of Latvia concerning violations of the prohibition on organising, conducting, and participating in military tactical training, establishing criminal liability for organising or leading espionage, and so on.

Further research in this area could focus on exploring preventive measures against international threats and improving mechanisms aimed at countering the spread of extraterritorial influence on their dissemination.

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Conflict of interest

None.

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Запобігання міжнародним загрозам у контексті вдосконалення правових засад національної та регіональної безпеки

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Анотація. Геополітичні виклики та потенційні інтегральні загрози поставили на порядок денний питання розробки стратегій та інструментів протидії ризикам і зміцнення безпеки. Метою дослідження є комплексна оцінка напрямів розвитку кримінального права в контексті підвищення національної та міжнародної безпеки. У дослідженні використано методи узагальнення, аналізу, систематизації та дедукції. У дослідженні оцінюється вплив російського вторгнення в Україну, яке на прикладі конкретних протиправних дій в Латвії виявило реальні ризики для національної безпеки Латвії та Балтійського регіону. Розглядаються злочини, пов'язані з порушенням заборони на участь у збройних конфліктах, організацією та проведенням військово-тактичних навчань, неприпустимістю надання допомоги іноземній державі в діях, спрямованих проти іншої держави. Зрештою, такий аналіз дозволяє виявити важливість і реальну загрозу цих кримінальних правопорушень для державної безпеки та визначити підходи до вдосконалення законодавства у цій сфері. Досліджується склад злочину «шпигунство», що в підсумку окреслює структуру такого протиправного діяння та його небезпеку. Значна увага приділяється розгляду катувань як злочину проти людяності, що здійснюється на основі національного та міжнародного законодавства. У результаті розглянуто еволюцію цього кримінального правопорушення, оцінено різні підходи до визначення цього явища, досліджено садизм як окрему форму катування, створено класифікацію подібних діянь, сформульовано різні види наслідків, які можуть бути заподіяні під час вчинення такого злочину. Практичне значення дослідження полягає у можливості використання його результатів правоохоронними органами для формування ефективних стратегій розвитку сучасних політико-правових інструментів запобігання міжнародним загрозам

Ключові слова: кримінальне правопорушення; збройний конфлікт; катування; шпигунство; воєнні злочини; відповідальність

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Restrictions on human rights and extraordinary legal regimes

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Abstract. The war between Russia and Ukraine highlights the importance of the research. The resulting state of war has far-reaching consequences across all areas of Ukrainian society, including the basic liberties and entitlements of its people. Therefore, the aim of this scientific work is to explore how to lessen the detrimental consequences of restrictions considering different dimensions of individuals' opportunities in the conditions of an emergency situation. The methods used in this research include comparative legal analysis, legal hermeneutics, core scientific methods of analysis, synthesis, and others. The research's central outcomes involve clarifying the legal essence of extraordinary regimes and identifying their characteristic features. It is revealed that in Ukraine, extraordinary regimes manifest in two forms – martial law and a state of emergency, with significant differences between them. The research also examines the cases of their implementation, notably that a state of emergency is predominantly declared during natural disasters, while martial law is imposed during armed aggression. The study also analyses national legislation regulating the imposition of extraordinary regimes, highlighting the main grounds for their introduction and the procedure. Attention is given to international acts, including conventions and pacts, defining circumstances under which a state can deviate from its obligations in emergencies. The international experience of regulating this institution is explored, particularly in Germany, Poland, and France. The research asserts that the most widespread basis for declaring a state of emergency globally has been the

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COVID-19 pandemic, while the full-scale armed invasion by the Russian Federation serves as a condition for imposing martial law in Ukraine. The findings of the research can be utilized for further investigations on related topics and for refining existing legislation concerning extraordinary regimes

Keywords: martial law; State of Emergency; military conflict; pandemic; democracy; international protection

Introduction

Regimes implemented during emergencies are marked by a shift in the balance between individual rights and government authority, with the latter expanding at the expense of the former. One of the current research questions on extraordinary regimes is their legality and compliance with international human rights standards. Another relevant aspect is their effectiveness in guaranteeing the physical and social security of citizens, as well as the need to develop a strategy to lower the potential harm on human rights. The complexity of the research lies in the necessity for a thorough analysis of their structure due to insufficient legal regulation, making it challenging to determine whether these provisions align with international standards.

V. Ternavska (2023) explored the theoretical aspect of legal regimes, defining them as a unique order for regulating particular dimensions of social interaction in the context of constitutional and legal policies. Legal frameworks entail the implementation of specific regulatory methods and mechanisms, considering the objectives established by the legislature, the distinctive features of the regulated area, and the legal standing of the individuals and entities impacted. The researcher highlights their advantages in efficiently addressing tasks related to ensuring citizens' safety during emergencies. Regarding the grounds for the introduction of extraordinary legal regimes, it's important to focus on the work of W. Wenger (2023). According to the author, a functioning parliament is critical for maintaining a unified legal system during martial law. The Ukrainian constitution acknowledges this by allowing martial law as a temporary legal framework to effectively address wartime difficulties (Konieczny, 2023).

The issue of the need to respect individual liberties in the context of emergency legal measures is outlined in the study by M. Kornienko (2023). Thus, the author points out that the Ukrainian state has a list of international obligations in the human rights sphere, so their observance, even under martial law, is a crucial aspect in ensuring the country's image on the world stage, as well as a positive aspect of European integration. The activities of state and local authorities and the need to control their powers are also of particular importance. For more details on international standards for the implementation of certain extraordinary regimes, it is worth revising the work by A. Zavydnyak (2022). Thus, the legal grounds for the introduction of emergency legal regimes are based on international treaties, in particular Article 4 of the International Covenant on Civil and Political Rights and Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms. In particular, the implementation should be based on the protection of privacy, freedom of access to government, public and independent administration of justice.

Ukrainian law, as analysed by Rastorgueva, dictates the procedures for enacting an emergency legal regime (2022). The author states that the Law of Ukraine "On the Legal Regime of the State of Emergency" (1996) sets out the essence of this phenomenon, defines the legal procedure for its introduction and termination, including a detailed examination of how public authorities operate and the extent of their authority during such a regime. Y. Hajos (2023) considers the Covid-19 pandemic to be one of the main reasons for limitations placed on fundamental liberties. The author argues that the COVID-19 pandemic has sparked debate about the validity of limitations placed on specific rights, particularly those concerning movement and public gatherings. In addition, the researcher noted that Covid-19 has also led to long-term consequences for international relations, national policies, and democratic regimes.

The legality of the restrictions imposed during the pandemic was discussed by L. Forman and J. Kohler (2023). Thus, restrictions on human rights during a pandemic are permissible under international law, but must comply with certain principles, including necessity, proportionality, non-discrimination, transparency, and accountability. Thus, response measures such as quarantine, social distancing, although they restricted freedom of movement and assembly, were crucial to controlling the spread of the infection, and thus balancing public health and welfare with the individual rights of individuals.

Reviewing current literature reveals a focus on extraordinary legal regimes in a theoretical context. However, there's limited comprehensive investigation on the practical implementation of martial law in Ukraine, particularly its effects on citizen security and democratic principles. This study seeks to address this gap by exploring strategies to lessen the adverse impact of restrictions on human rights and freedoms, safeguarding fundamental democratic values. Thus, taking into account the previously discussed aspects, the purpose of this work is to develop ways and means to mitigate the detrimental effects of limitations on fundamental rights across different facets of society, as well as on the basic principles of democracy.

Materials and methods

The research employed various scientific methodologies to gather and analyze data.Thus, the method of analysis was useful in studying the concept of extraordinary regimes, identifying its features, characteristics. This method was also useful in studying the main types of extraordinary regimes and their interrelationships with modern realities. The method of analysis was also used to identify global challenges, problems, and threats to human rights protection, in particular in Ukraine; and also allowed exploring the relationship between the Covid-19 pandemic, the military invasion of the Russian Federation and the forced restrictions on fundamental rights and freedoms of citizens.

The synthesis method was used to distinguish between approaches and concepts to lower the potential downsides of the Limitations impacting various facets of social engagement and to maintain a balance of private and public interests under martial law. This method was also useful in developing a number of recommendations for legislative and structural changes that would help increase the effectiveness

of the restrictions imposed, while maintaining a balance between public and private interests in protecting the country and the rights of individuals.

One of the main methods was also comparative law. In particular, by comparing the institutions, legal norms and practices of introducing a state of emergency and martial law, the author has identified international experience in this area in comparison with the Ukrainian experience. The method was applied to such countries as Poland, Germany, and France and the way this issue is regulated in these national legal systems. Along with the comparative legal method, the author also used the interpretative method based on the study of statistical data on the impact of human rights restrictions during martial law on freedom of speech in Ukraine. The source used to research and present the relevant statistics was the research organization Reporters Sans Frontières (2023).

The method of interpretation also allowed interpreting and understanding the legal aspects of the research object, as well as determining the content of legal norms and the specifics of their application within the framework of extraordinary legal regimes, including martial law and the state of emergency. Thus, the objects of research, based on this method, are: Constitution of Ukraine (1996), Law of Ukraine No. 1550-III "On the Legal Regime of a State of Emergency" (1996), Law of Ukraine No. 389-VIII "On the Legal Regime of Martial Law" (2015), Convention on the Protection of Human Rights and Fundamental Freedoms (1950), International Covenant on Civil and Political Rights (1973), Decision of the National Security and Defence Council of Ukraine "Regarding the Implementation of a Unified Information Policy under Martial Law" (2022), Law of Ukraine No. 2160-IX "On the Introduction of Amendments to the Criminal and Criminal Procedure Codes of Ukraine to Ensure Counteraction to the Unauthorized Dissemination of Information about the Sending, Transfer of Weapons, Armaments and Military Supplies to Ukraine, the Movement, Transfer, or Placement of the Armed Forces of Ukraine or other Military Formations formed in Accordance with the Laws of Ukraine, Committed under Martial Law or State of Emergency" (2022).

Along with the method of scientific cognition, a systemic and structural approach was also applied, which allowed studying the range of subjects with certain powers to introduce martial law or a state of emergency on the territory of Ukraine, as well as on the territory of other states. Using the heuristic method of scientific cognition, the author examined the opinions and results of scholars, took into account the controversial aspects and formed a general conclusion.

Results

In response to exceptional circumstances, a temporary set of legal regulations – known as an extraordinary legal regime - may be implemented within a specific geographic area or sector of public life. These circumstances typically pose a significant threat to citizens' safety and well-being, public order, and state's self-governance and wholeness of its territory. (Forman and Kohler, 2023). The legal nature of extraordinary legal regimes is that they are a special type of legal regulation that applies in extraordinary circumstances. Extraordinary legal regimes are based on the principles of the rule of law, legality, humanism, justice, and necessity. The main features of extraordinary legal regimes include temporality: extraordinary legal regimes are established for a certain period determined by law; exclusivity: they are applied only in case of extraordinary circumstances; restriction: they cannot violate the rights and freedoms guaranteed to citizens by the constitution; centralization: extraordinary legal regimes are established and implemented by public authorities. Extraordinary legal regimes, implemented in response to exceptional circumstances, encompass various frameworks, including states of emergency and martial law.

As for the state of emergency, this regime is regulated by the Law of Ukraine No. 1550-III "On the Legal Regime of a State of Emergency" (2000). which states that this is a special regime introduced in response to emergencies or natural disasters with the potential for casualties, property damage, or risks to public safety, a temporary emergency regime may be implemented nationwide or in specific areas. This regime grants authorities the necessary powers to address the situation and safeguard public well-being. While the regime may restrict citizens' rights and freedoms for their safety, such limitations have a defined duration. Among the grounds for the introduction of this regime, the legislator identifies natural disasters, fires, mass terrorist acts, inter-confessional and interethnic conflicts, seizure of extremely important facilities, attempts to seize public power (Law of Ukraine No. 1550-III…, 2000). Thus, in the event of such situations, a special regime of entry or exit for Ukrainian citizens may be introduced, rights and freedoms may be restricted, and, accordingly, public order protection may be strengthened in the territory where such a regime was introduced, the right to strike, mass events may be restricted, and the right to property may be restricted.

The international experience reveals consistent approaches to state of emergency declarations. The Republic of Poland's model includes an initial 30-day timeframe, with Parliamentary approval required for extensions. This measure is strictly reserved for crisis situations like natural disasters, armed conflict, or severe disruptions to internal security and order. The Constitution of Poland (1997) also states in Section XI that during the state of emergency, the Constitution, the rules of elections to the Sejm, the Senate and local governments, the electoral process cannot be changed. The right to human dignity, citizenship, and the right to life are not subject to restrictions. During such a regime, the main restrictions include the introduction of control and censorship of the media, restrictions on freedom of movement and assembly, prohibition of strikes and demonstrations. Poland has declared a state of emergency only twice since 1989: after the 2010 plane crash that killed President Kaczynski and in 2020 due to the COVID-19 pandemic. The latter declaration was criticized for excessive restrictions on freedom of assembly and media (Kozlová, 2023).

Depending on the threat, different response mechanisms are activated in Germany. A "state of defence" is declared in response to armed attacks, while an "internal state of emergency" is implemented when facing natural disasters or significant threats to public order. Thus, in accordance with Articles 10-12 of the Constitution of the Federal Republic of Germany (1949), restrictions on the secrecy of correspondence, mail, ability to move freely may be legally enacted. Also, the Constitution provides for the involvement of women on a voluntary basis to provide services in the civilian healthcare system and military hospitals. The experience of France is somewhat different, in particular, the country has two separate states of emergency: a state of

emergency in case of threats to national security (declared by the President) and a state of emergency in case of natural disasters. In accordance with the Constitution of the French Republic (1958), restrictions in this case include freedom of movement, prohibition of mass gatherings, strikes, and the right to rest.

The global health crisis caused by the SARS-CoV-2 virus in Ukraine can be an instance of implementing a state of emergency, in particular, in these circumstances, law enforcement agencies were involved in monitoring compliance with the restrictive measures imposed by the population. Such measures included social distancing, a ban on mass gatherings, and thus restrictions on civil and social rights (Rubenstein & Decamp, 2020). Such restrictions are considered legitimate in view of the provisions of Article 64, Part 1 of the Constitution of Ukraine (1996). Domestic legislation on human rights must align with international standards, such as those outlined in the Convention for the Protection of Human Rights and Fundamental Freedoms (1950). This convention sets specific criteria for lawful restrictions on rights and freedoms. These include clear legal basis, serving a legitimate democratic purpose (i.e., upholding public safety, health, morals, preventing crime, or protecting others' rights), and demonstrating necessity within a democratic society. The case law of the European Court of Human Rights on compulsory vaccination is also useful in this regard. Thus, in the Case of Solomakhin v. Ukraine (2012), the ECtHR ruled that mandatory vaccinations provided for by law meet the requirements of interference with a particular right of a person and pursue a legitimate aim; at the same time, these measures aim to achieve a harmonious relationship between individual rights and societal well-being.

In the Case of Thevenon v. France (2022), which concerns vaccination against COVID-19 infection, the ECtHR rejected a collective application by firefighters from France to impose a ban on compulsory vaccination and restrictions on the national vaccination legislation. Thus, the court noted that the requirements of the application went beyond Article 39 of the ECHR Rules. In summary, it is worth noting that in some matters the court gives preference to national sovereignty in the relevant issues, in particular, in ensuring the normal functioning of the state during emergencies, as well as in ensuring public health and safety. At the same time, the ECtHR requires compliance with the basic requirements for the introduction of certain restrictions on the rights and freedoms of individuals, which are their legitimacy, predictability, and necessity.

In addition to states of emergency, martial law is another extraordinary legal regime. Ukraine's Law No. 389-VIII "On the Legal Regime of Martial Law" (2015) outlines its implementation in response to armed aggression, threats of aggression, and risks to the nation's territorial integrity. The enactment of martial law significantly alters the balance between individual rights and freedoms and the authority of the state, curtailing certain liberties while expanding governmental powers. Specifically, the protection of critical infrastructure objects is intensified, a special regime for their operation is introduced, labour duty is imposed on individuals not engaged in defence-related work or employed by reserved enterprises, resources of institutions of all ownership forms can be utilized, and compulsory alienation of property for the needs of the state sector is envisaged. However, in accordance with the legislation, certain restrictions are imposed. These include limitations on freedom of movement, especially through the implementation of curfews and specific entry and exit procedures. Under martial law, parallels exist with state of emergency conditions regarding limitations on public assembly. Demonstrations and strikes may be prohibited, and freedom of movement in designated regions can become restricted. Individuals enlisted in the military may face additional restrictions on changing their residence without prior approval.

Given these restrictions, the question of their legality, in particular those restrictions relating to the right to travel outside the country, is particularly acute. Thus, a number of international acts, as well as national legislation, guarantee the right of individuals to move freely and choose their country of residence. Article 15 of the European Convention on Human Rights acknowledges the possibility of restricting the right to life in extraordinary circumstances. It outlines that during times of war, a country may take measures that temporarily deviate from its obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms (1950). Thus, the restriction of freedom of movement for men of military age introduced by Ukraine was based on the conditions of an acute situation, namely military aggression by the Russian Federation, and this restriction is legitimate, i.e., legal acts provide it. It is also advisable to pay attention to another international act that regulates curtailment of fundamental rights during crises – the International Covenant on Civil and Political Rights (1973). Article 4 of the International Covenant on Civil and Political Rights establishes that a state facing a severe public emergency may grant a temporary reprieve from certain duties under the Covenant under specific conditions. These conditions include actions that are strictly proportionate to the severity of the crisis and avoid any form of discrimination. Furthermore, Article 12 claims that limitations on the right to travel freely may be imposed under specific circumstances, such as safeguarding national security, maintaining public order, protecting public health, or upholding societal morals.

Given the enhanced powers of public authorities under martial law, a pressing question arises: how can the negative impact of restrictions on citizens' rights and freedoms be mitigated, while preventing abuses of power. Thus, it is currently reasonable to talk about significant limitations placed on the right to free speech., in particular due to the need to protect the information sphere in Ukraine. A ban on the dissemination of Russian symbols, support for Russia's armed aggression against Ukraine, and also the act of revealing details on military equipment transportation is now punishable by law (Law of Ukraine No. 2160-IX…, 2022; Law of Ukraine No. 2265-IX…, 2022). Media activities are significantly restricted due to the introduction of the "United News" format (Decision of the National Security…, 2022). In such circumstances, outlining the specific justifications for any potential limitations on free speech during martial law is crucial for clear understanding to provide for the type of prohibited media content that will be subject to legal liability for its dissemination. Given that media activities are regulated by several state authorities, it is necessary to delineate and specify the limits of their powers and interference in media activities. Create a single resource that would contain a list of current curtailment of personal rights and liberties, not only in the media but also in other public spheres. Additionally, it's crucial to develop well-defined guidelines for

media activities and broadcasting in the occupied territories, which include a simplified process of licensing renewal after de-occupation. In light of this, particular attention should be paid to some statistical data (Fig. 1).

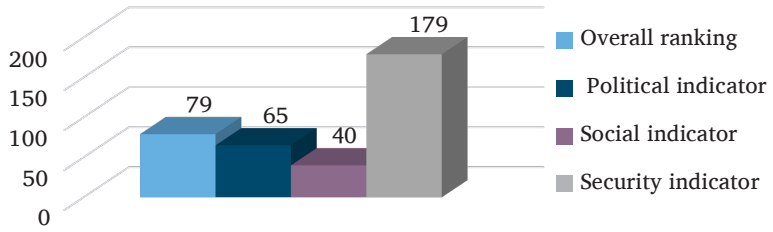

Figure 1. Index of freedom of speech in Ukraine, 2023

Source: Reporters Sans Frontières (2023)

In 2023. Ukraine ranked 79th overall out of 180 countries, and 179th in terms of security out of 180 countries. These results are mainly due to martial law and the need to impose restrictions on the media, as in 2020 the security score was 18.84, which corresponded to 165th place. Thus, the security indicator indicates a real threat and an urgent need for information protection of freedom of expression, and assesses the ability to design, collect and disseminate journalistic information without excessive risk of physical, moral, or professional harm. Looking at countries that are not at war as of 2023, in particular, France and Germany, France ranks 24th overall and Germany 21st. However, when analysing a country that is in a state of extraordinary legal regime – a state of war, such as Israel, this country ranks 97th in terms of overall indicators as of 2023; in 2020, for example, this indicator was 88th (Reporters Sans Frontières, 2023). In other words, it is reasonable to talk about the significant negative impact of exceptional legal measures such as martial law and states of emergency on the development and opportunities for free expression and freedom of speech in countries that are forced to impose legitimate restrictions on these rights.

The protection of privacy rights, even in wartime, deserves attention. In this context, privacy is restricted due to the adopted amendments to the Criminal Code of Ukraine, which provide for expanded access of law enforcement agencies to communication devices, correspondence, other documents (Law of Ukraine No. 2265-IX…, 2022). Open communication and discussion of certain government decisions and legislative initiatives to restrict rights and freedoms is also important to provide feedback and highlight issues that need to be investigated and improved (Law of Ukraine No. 2110-IX…, 2022). In the context of martial law as an extraordinary legal regime, it is necessary to ensure access to justice for individuals, free legal aid resources, as well as to clearly define the restrictions imposed and their impact on individuals (Fernando, 2022). Thus, it is advisable to create a separate special law that would contain a list of existing restrictions on individual rights and liberties currently in force in Ukraine, as the Law of Ukraine "On the Legal Regime of Martial Law" (2015) contains several restrictions that have not been enacted, i.e., uncertainties and ambiguities plague the current regulatory framework. (Ortiz, 2020). It would also be advisable to specify the provisions of Article 8(5) of this legislative act regarding the curfew, namely to add certain exceptions that would exclude liability for violation of these restrictions, in particular in cases of emergency. By implementing these measures, a balanced consideration of individual rights and state security can be achieved, particularly when safeguarding territorial integrity and responding to external threats to national sovereignty.

Discussion

Within exceptional legal frameworks, striking a balance between state interests and societal needs is essential. Simultaneously, these situations demand a commitment to upholding fundamental rights and freedoms for citizens, even during states of emergency or martial law. Scholar D. Gatmaytan (2020) points out that the consequences of the introduction of such regimes may include: abuse of executive or legislative power, lack of effective judicial oversight and control over the activities of public authorities, systematic violation or restriction of human rights that is not legitimate under extraordinary regimes, non-compliance with democratic principles. The author proposes to develop clear regulatory standards for responding to certain states of emergency, as well as to promote transparency and discussion of decisions against the background of the relevant states among the public to maintain public trust and legitimacy of the restrictions imposed. The researcher's findings lend support to the conclusions drawn in this paper. Indeed, the activation of extraordinary legal frameworks, encompassing states of emergency and martial law leads to the deployment of irreversible processes designed to curtail the scope of fundamental rights and liberties of the public in a certain way for the sake of security, but in order to minimize the risks of misconduct by public authorities in such circumstances, it is necessary to develop a clear legislative framework, hold public consultations, rely on the provisions of international acts (Biloshytskyi, 2023).

It is important to take into account the considerations contained in the work of A. Ullah and M. Uzair (2011), who studied the Indian and Pakistani experience regarding the main conditions for the introduction of a state of emergency, since the countries are signatories to the International Covenant on Civil and Political Rights (ICCPR), which generally prohibits derogation from certain rights, such as the right to life, but allows derogation from the obligation to guarantee the right to movement and assembly in cases of emergency. The authors note that, for example, in India, the Supreme Court plays a greater role in this process, acting as a controlling body over other branches of government. On the contrary, the Pakistani legal framework provides for wider scope and powers of the executive during emergencies, which raises concerns about possible abuse of power. The researchers, in their conclusion, also emphasize the

importance of transparent mechanisms for the exercise of powers during emergencies, as well as a fair balance of interests. While the present study's findings diverge from those of the authors, their work offers valuable insights by drawing on international experiences with emergency regulations and the expanded authorities granted to public entities in various countries. This comparative perspective enriches the understanding of this complex topic.

The COVID-19 pandemic as an emergency has caused an unprecedented global crisis, prompting many countries to take exceptional measures to protect public health (Çera, 2022). C. Corradetti and O. Pollicino (2021) studied the Italian experience of dealing with this challenge; the authors argue that the Italian government has mainly relied on (constitutional) emergency powers, as defined in Article 77 of the Italian Constitution. This article allows the government to adopt temporary measures "in case of war and public danger". It is argued that, although the situation was serious, the use of the term "war" to describe the pandemic is misleading and potentially dangerous, as it could justify a wider range of abuses and restrictions of rights than necessary. The authors' work only partially confirms the results of this paper, but it should be added that in order to legitimately introduce any government-imposed limits on personal rights and freedoms, a clear and understandable regulatory framework is needed as the basis and grounds for such implementation. This is in line with the provisions of the European Convention on Human Rights and allows for proportionality and relevance of the measures taken to the existing problem to be solved.

In general, both crises and emergencies, as G. Delledonne (2020) points out that both crises and emergencies are catalysts for legislative and structural changes. These events can expose weaknesses in the existing constitutional order and create pressure for reform. In particular, the nature of the crisis or emergency can affect the type of changes that take place. For example, a war could prompt modifications in the composition of the executive branch, while a natural disaster or pandemic may lead to changes in environmental regulations, public health principles. The researcher also points to the need to control the powers of the authorities, which, under extraordinary legal regimes, may go beyond the limits established by law. There's a degree of convergence between the author's findings and those presented in this paper. Crucially, both conclude that public and judicial mechanisms are essential for overseeing executive and legislative authorities during states of emergency or martial law, as they help protect against further curtailment of citizen rights and freedoms (Vilks *et al.*, 2022).

In times of war, the right to choose one's employment may be restricted, and labour conscription may be introduced, but, as A. Demycheva (2022) points out, such restrictions must be consistent with the conditions in which they are imposed, be appropriate, reasonable, and predictable, i.e., defined by legislative norms. The author also emphasizes the importance of reviewing restrictions on certain rights in proportion to changes in the intensity of hostilities. The author's research aligns with the findings of this paper, particularly regarding the justifications deemed essential for legitimate limitations imposed under martial law. Thus, in view of the provisions of some international conventions, derogation from obligations cannot be considered by states as an opportunity for arbitrary restriction of civil liberties.

V. Doroshenko (2023), for example, identified the main measures and mechanisms according to which human rights are protected in times of war, including protection by public authorities, public non-governmental organizations, as well as self-defence, which provides for the possibility of court appeals, including constitutional appeals, appeals to the prosecutor's office. Though a partial alignment exists between the author's findings and this work, it's crucial to emphasize the real-world obstacles to judicial protection faced during wartime. The realities of intense conflict and occupation can significantly undermine its availability.

The issue of derogations from obligations under international conventions is covered by S. Wallace (2020). The author expresses concern about the potential abuse of the possibility of derogations from obligations by States, which may go beyond the normatively defined cases, as well as the lack of proper oversight of the State's activities during the relevant period. Thus, the researcher suggests narrowing the list of circumstances under which states may derogate, limiting them to truly exceptional situations, improving control mechanisms with systematic reporting on the rights whose restriction was necessary, clarifying and explaining the exact list of rights and freedoms that may be restricted and the scope of such restrictions, promoting transparency and accountability through public reporting. Studies of the possibility of democratic decline as a consequence of the state of emergency were conducted by A. Lührmann and B. Rooney (2021). Thus, a state of emergency is an exceptional situation in which governments receive temporary additional powers to address urgent threats. A state of emergency can provoke abuse of power, which in turn leads to unjustified limitations placed on individual rights, centralization of governance, and censorship (Rasheva *et al.*, 2019).

Similar considerations are made in the work by T. Drinóczi and A. Bień-Kacała (2020). The authors point out that Hungary and Poland have demonstrated trends towards illiberal constitutionalism during the COVID-19 pandemic. Thus, the exceptional circumstances caused by the disease have led to the concentration of powers in the executive branch of government, constraints imposed upon fundamental rights and liberties, and a weakening of the independence of the judiciary. While the specific findings of the authors don't fully align with this work, it's important to acknowledge that limitations on individual rights and protections during states of emergency Might be perceived as a crucial action to ensure a minimum level of security within society. At the same time, such restrictions must be legitimate, foreseen and proportionate to the danger, the consequences of which must be minimized. Risks to the decline of democracy can be mitigated through public oversight, judicial control and an effective system of checks and balances for public authorities (Spytska, 2023).

A general analysis of human rights in times of crisis was conducted by J. Fitzpatrick (1994). The author points out that a state of emergency allows governments to temporarily suspend some normal legal procedures and expand powers to address urgent threats. However, these exceptional situations can also lead to abuse and potential infringements upon fundamental rights. J. Fitzpatrick also argues that there are certain gaps in the global framework for safeguarding human rights, which are manifested in the current absence of a clear and universally accepted definition for the term "state of emergency". This ambiguity allows for subjective

interpretation and potential abuse of emergency powers; uneven application of international human rights standards; and limited ability of international monitoring bodies to intervene effectively.

The author's work offers valuable insights within the topic but it is important to add that to improve the mechanisms of international protection of human rights, it is necessary to initiate the development of additional protocols to the conventions that would clearly and exhaustively define the concept and types of emergency regimes, which rights may be restricted in such conditions, how these restrictions should be imposed, and the system of intervention and control by the supervisory bodies of international organizations to prevent abuse of power by public authorities.

Conclusions

Through this research, a deeper understanding of the features and hallmarks of extraordinary legal regimes has been achieved. Specifically, the concept of this legal phenomenon has been examined, and its main types, namely martial law, and a state of emergency, have been elucidated. Differences between these states are highlighted in terms of declaration conditions, reasons, procedures, and potential limits placed on certain rights.

In Ukraine, these states are regulated by separate legislative acts, categorizing the extraordinary legal regime into two distinct forms: martial law and a state of emergency. The research also explores the experiences of other countries in this matter. For instance, in Poland, according to the Constitution, a state of emergency can be declared by the president, during which constitutional provisions and electoral norms cannot be altered. In Germany, grounds for declaring a state of emergency or defence may include armed conflict, natural disasters, and so on. During wartime, women can be voluntarily enlisted in the medical field. French legislation, under extraordinary regimes, envisages restrictions on freedom of movement and expression of views. It is noted that in recent years, most countries declared a state of emergency due to the COVID-19 pandemic, leading to restrictions on movement, the right to private life, and the right to peaceful assembly. Therefore, the analysis of international experience identifies similar grounds for imposing extraordinary regimes but underscores certain differences in the methods of implementation and the restrictions prescribed by these states. It also emphasizes the significant role of the European Court of Human Rights in matters of these limitations, particularly in the field of mandatory vaccination. In the case No. 24429/03, the Court ruled that such interference corresponds to societal danger, aimed at prevention, and is legitimate. Additionally, in the case No. 24429/03, the Court underscores the role of national sovereignty in decisions regarding the imposition of restrictions.

The research also includes a review of requirements from international conventions for imposing restrictions or prohibitions on certain rights and freedoms. The analysis concludes that the limitations imposed in Ukraine during martial law meet the requirements of necessity, proportionality, predictability, and are legitimate. The study proposes a range of approaches to minimize the negative impact of restrictions on human rights on democratic principles, as well as to prevent abuse of powers by state authorities. These include a clear and understandable legislative framework with a precise meaning of the list of rights subject to restrictions, a coordinated mechanism for judicial oversight and control over such restrictions, and the participation of intergovernmental organizations for monitoring the state of human rights in wartime conditions.

To expand on this work, potential areas of future research include investigating the international framework for safeguarding human rights during wartime, along with strategies for strengthening these protections. Additionally, examining the ways in which restrictions on free speech and expression can jeopardize democratic systems deserves further attention.

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Conflict of interest

None.

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Анотація. Актуальність дослідження зумовлена повномасштабним вторгненням Російської Федерації на територію України як підставою для введення воєнного стану, що впливає на усі сфери суспільного життя, права та свободи осіб. Таким чином, метою даної наукової робота постає з'ясування того, яким чином можливо мінімізувати негативний вплив обмежень на ті чи інші можливості осіб в умовах надзвичайної ситуації. Методами, котрі були використані в даному дослідженні, постали наступні: порівняльно-правовий, метод юридичної герменевтики, загальнонаукові методи аналізу, синтезу тощо. Основні результати роботи полягають у з'ясуванні правової сутності екстраординарних режимів, виокремлення їхніх характерних особливостей. Досліджено, що на території України екстраординарні режими виявляються у двох видах – воєнний та надзвичайний стан; вказано на основні відмінності між вищезазначеними режимами, а також випадки їх введення, зокрема надзвичайний стан переважно вводиться у період стихійних лих, а воєнний у період збройної агресії. Також в межах дослідження аналізувалося національне законодавство, котре регламентує введення екстраординарних режимів; було виокремлено основні підстави їх введення та порядок. Увага була приділена й міжнародним

актам, зокрема конвенціям та пактам, що визначають випадки відступу від зобов'язань для держави в умовах надзвичайних ситуацій. Зазначалося і про міжнародний досвід регулювання вказаного інституту, зокрема на прикладі Німеччини, Польщі та Франції; у роботі стверджується, що найбільш поширеною підставою введення надзвичайного стану у світі стала пандемія коронавірусу COVID-19; умовою для введення воєнного стану на території України постало повномасштабне збройне вторгнення Російської Федерації. Результати дослідження можуть бути використані для подальших досліджень на дотичну тематику, а також для вдосконалення існуючого законодавства щодо екстраординарних режимів

Ключові слова: воєнний стан; надзвичайний стан; військовий конфлікт; пандемія; демократія; міжнародний захист

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Transformation of the content of human rights under the influence of globalisation

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Abstract. Human rights have transcended the realm of individual-state relations, becoming a constructive element of state legal systems and promoting the integration of social and legal relations, leading to the emergence of previously unknown human rights. Therefore, it is necessary to develop a legal understanding of them, considering contemporary realities. The purpose of the study is to describe and characterise the latest human rights within the framework of the general theory of law and the state. The methodological basis of the study is civilisation and socio-philosophical approaches, within which analysis, synthesis, and modelling methods were used. The essence of distinguishing generations of human rights boils down to the gradual realisation and resolution of issues of human legal status in a changing reality. Social relations, complicated by historical development, will give rise to new problems in human legal status. Attention is drawn to the close connection of human rights with the sphere of health protection, which arose as a result of scientific and technological achievements in biology and medicine, discussing rights to artificial insemination, euthanasia, organ transplantation, cloning, and gender change. The impact on fundamental human rights through the digitisation of law is analysed. The idea of the universality of human rights harmoniously interacts with the universality of digital technologies, so in the era of digitisation, the content of human rights and the related values do not change, and human rights themselves can become a unifying target perspective in determining attitudes towards new technologies. The main trends in the development of human rights in the conditions of globalisation are

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modelled, including the universalisation and unification of human rights, the complication of mechanisms for ensuring human rights at the international level, and the increasing importance of judicial law in protecting human rights at the supranational level. The paper focuses on the dependence of globalisation processes on transforming national legal systems in war conditions. The practical value of the study lies in its potential to incorporate the trends in human rights development within the context of globalisation into specific topics covered in courses on state and legal theory, philosophy of law, and the creation of relevant educational and methodological resources

Keywords: digital rights; somatic rights; gender autonomy; euthanasia; donation; organ transplantation; globalisation; human rights

Introduction

The universal nature of globalisation extends its influence not only on the economic, financial, informational, and technological spheres, where it manifests in its most developed form but also on other aspects of societal life, including law. Globalisation allows states to explore new dimensions of development and horizons of legal policy. This is particularly evident in human rights, which, experiencing the ambiguous impact of globalisation, is developing contradictorily. On the one hand, globalisation has an indisputable positive impact, enriching and filling the social experience with new content. On the other hand, legal norms are being increasingly standardised, fundamentally altering the character of global, local, universal, and national relationships. New scientific achievements in information and communication technologies and healthcare, which have become essential attributes of globalisation, have shaped new types of human rights. This inevitably affects the content, functioning mechanisms, and forms of manifestation of these rights, significantly actualising investigation in this field. Moreover, it is important to emphasise that the high dynamism of global processes and their influence on the development of human rights precede the analysis of the obtained results and their scientific exploration. The issue of modernising human rights in the context of the place of war in the overall architecture of globalisation is also relevant.

Considerable attention is paid to the analysis of human rights in the literature on the philosophy of law, history, and theory of law. O. Barabash (2022), investigating human somatic rights through the prism of property rights to one's body, concludes that human somatic rights are characterised by the fundamental ability to dispose of one's body – to conduct its "modernisation," "restoration", "fundamental reconstruction", change the functional capabilities of the organism, change gender, transplant organs, which can be interpreted as a reflection of the natural exchange and interdependence of one's body with other bodies and the environment, reflecting the possibilities of self-determination and self-fulfilment. This position is echoed in the studies of E. Richardson and B. Turner (2011), who propose to differentiate the right to the body in the following triad: (1) the right to the integrity of the body (i.e., the right to oneself); (2) the right to purchase, sale, or preservation of parts of the body (in the case of transplantation, donation, or sale of organs); (3) the right to "particles" of the body (DNA codes, genetic material belonging to human reproduction, such as egg cells, sperm).

O.V. Petryshyn and O.S. Gilyaka (2021) analysed theoretical and practical aspects of human rights development in the digital transformation era. In their study, the main focus is on new rights such as the right to be forgotten, anonymity, protection of personal data, access to digital knowledge and relevant education, including rights related to the protection of genetic information and participation in property turnover in the digital sphere. Y.S. Razmetayeva (2020) drew attention to the jurisdictional aspects of rights protection in the conditions of wide use and accumulation of data, the increasing influence of business structures and their implications for human rights and the global effect. J. Grimmelmann (2006) highlights the human right to virtual reality, which he defines as the basis not only for complex computations but also for human imagination, a wide range of sensations, perception of art, and so on. Thus, "virtual reality" can potentially relate to various situations in which a person feels in a certain environment, and accordingly, it can act as a sphere of human rights. However, the essence and classification of human rights as belonging to the so-called fourth generation of rights have not been sufficiently explored, hence the need for the development of a certain generalised view on human rights as an element of a modern globalised society.

The purpose of the study is to explore the genesis of the modern generation of human rights and to form a general theoretical vision of the main trends in the development of human rights, determined by globalisation processes.

Materials and methods

The methodological basis of the study is reflected in the application of dialectical and systemic-philosophical methodology. Dialectical methodology defines the development of research principles and methods, especially in the context of socio-philosophical analysis. It is based on the principles of development and interaction of contradictions and the unity of theory and practice in legal theory and human rights concepts. This study uses a civilisational approach and a method of interrelation of the historical and logical. Systemic-philosophical methodology, in turn, defines corresponding approaches and methods in modern science. This paper uses a systematic approach, structural-organisational and system-structural analysis. Scientific and philosophical methods of analysis and synthesis are also applied to carefully examine the problem of human rights transformation in historical and modern contexts. Overall, the study uses a socio-philosophical approach, considering the problem from different perspectives and in the context of its social and philosophical aspects. The modelling method is critical. It enables the examination of human rights in their entirety and in connection with other aspects to identify regularities and make generalisations, thereby creating a theory of human rights in the general context of legal theory.

The normative basis of the study consists of international documents, specific laws, and regulations of Ukraine and European Union countries. Among these documents, the Vienna Declaration and Program of Action (1993), Charter of

Fundamental Rights of the European Union (2000), Law of Ukraine No. 2231-IV "On the Prohibition of Human Reproductive Cloning" (2004), and Law of the French Republic "On the Modernisation of Healthcare System" (2016) are of particular importance. To examine international experience in the field of human rights protection in specific areas, The Madrid Resolution on organ donation and transplantation (2011) was analysed, which declares national responsibility for meeting the needs of patients and the principle of self-sufficiency in donor organs, which is proposed to be considered as a guiding principle for all countries involved in organ donation and transplantation activities. The mentioned international documents and national laws are key sources for analysing the transformation of the content of human rights under the influence of globalisation. They stimulate the harmonisation of legal standards in EU countries and influence the development of national legislation, indicating the adaptation of legislation to new challenges and the transformation of norms and standards in the context of globalisation. These documents provide the context and framework for understanding the development of legal norms and standards on a global scale and at the national level, which helps to better understand the impact of international and national regulations on the transformation of human rights in the context of globalisation.

Results and discussion

Genesis of human rights generations. Globalisation as a multi-level and multi-faceted phenomenon is interpreted differently: on the one hand, it is considered a historical process; on the other hand, it is a way of universalising the world or destroying national sovereignties and borders. Currently, globalisation is recognised as one of the main trends in the development of modern civilisation, which entails the identification of a new object of study - the world as such and also requires each study to be embedded in the framework of the global context, as each sphere of society's life is increasingly interdependent with many other elements of the world.

The impact of globalisation on law manifests in several aspects: 1) it causes the transformation and improvement of legal institutions, individual norms, and society as a whole; 2) it leads to fundamental changes in both law itself and its theories, which necessitates the implementation of a pluralistic approach to understanding modern law; 3) it demonstrates the variety of ways and forms in which globalisation influences law, leading to the internationalisation of law through its reception, harmonisation, and unification; 4) it focuses on the influence not only on national but also on international law, its nature, sources, content, mechanism of action, etc.

A considerable object of the influence of globalisation is the social phenomenon of human rights, which have always been and remain influenced by the material and other conditions of society's life that surround them and are reflected in the economic and social environment of each state. It is widely recognised in legal doctrine that there are three historical generations of human rights: the first generation includes inalienable personal and political rights; social, economic, and cultural rights are attributed to the second generation; and the rights of solidarity and collective rights of peoples belong to the third generation (Malozhon, 2021). Since their inception, these generations have transformed theories, scientific teachings, and local documents into verbally recognised models of behaviour enshrined and recognised by the global community. This triad of human rights remains relevant and does not lose its significance. Still, it no longer perfectly reflects the modern processes of human rights development, which suggests the emergence (rooting) of a new, fourth generation of rights that requires the formation of new international legal institutions to ensure these rights.

Researchers have different views on the rights attributed to the fourth generation. Some opinions suggest that these include: the right to suicide and euthanasia (considered as components of the right to die); human rights related to procedures such as cloning and other advanced technologies in biology; information and communication rights; the right to peace, nuclear and environmental safety, space, etc.; the right to change one's sex, organ transplantation, creation and use of virtual information, and more (Dzebchuk & Ignatova, 2019); the right to use virtual reality, same-sex marriage, artificial insemination, a child-free family, and a life free from state interference (Shebanits, 2015).

In scientific literature, in addition to the term "human rights of the fourth generation", the term "somatic rights" is used, reflecting human rights related to their ability to dispose of their own body, including aspects such as the right to euthanasia, organ transplantation, cloning, the use of reproductive technologies, etc. According to Y. Turiansky (2020), the main feature of these rights is their direct connection to the human body. The right of individuals to dispose of their bodies includes: the right to determine the characteristics of the functioning and expression of the integral body-organism; the right to perform such actions with corresponding organs or tissues; the right of individuals to dispose of those biological components that have already been separated from their bodies, such as tissue parts, DNA, blood, sperm, etc. S.B. Buletsa *et al.* (2014) emphasise that rights in the field of health care are very controversial, as on the one hand, they help solve specific human problems, such as infertility and the need for organ transplantation, but on the other hand, they can pose a threat to future generations, especially when it comes to cloning.

Human rights of the fourth generation are much broader than the concept of somatic rights, as they also encompass legal issues related to virtual reality. It is important to focus on the features of the legal nature of individual human rights attributed to the fourth generation. Much attention is paid to the examination of fourth-generation human rights in health care, which are closely related to human life and health and have arisen due to the rapid development of science and technology in areas such as biology and medicine. Human rights in the field of health care typically have the following characteristics: they are personal non-property rights; their emergence is due to scientific progress, and their implementation requires the use of innovative medical technologies; they are closely related to human dignity; they are aimed at preserving human health or are related to human health (Buletsa *et al.*, 2019). Today, this category can include rights to artificial insemination, euthanasia, organ transplantation, cloning, and sex change. It is worth noting that the main argument put forward by euthanasia supporters is that according to the concept of human rights, every person has the right to dispose of their own body and life, which includes the right to make decisions about euthanasia. This area, according to some scientific sources, is called

"biojurisprudence" and is the most recent field in the general theoretical discussions on human rights (Tokarczyk, 2012).

The right to sexual and gender autonomy is defined as a person's right to freely choose ways of self-determination and self-identification, regardless of their sexual orientation and gender identity (Gerbut, 2019). This right cannot be limited by social morality, public order, traditional family values, or the interests of the child, as international norms, the practice of the European Court of Human Rights (ECHR), and the current conditions of societal development indicate the obsolescence and irrelevance of such arguments. According to O.V. Razgon (2016), regulating the family rights of transgender individuals creates certain difficulties in terms of legal succession regarding property and personal rights in family legal relationships.

The most controversial and contradictory right by its nature is the right to cloning. While human reproductive cloning is legislatively prohibited in most countries due to concerns about its harmfulness and lack of research, therapeutic cloning has received positive recognition and has found its legislative regulation. For example, the Law of Ukraine, "On the Prohibition of Human Reproductive Cloning" (2004), introduced a ban specifically on human reproductive cloning, while therapeutic cloning is allowed.

Therapeutic cloning aims to create cells or tissues for medical purposes, and it is an exception when considering the possibility of human cloning to save the lives of many people who were born naturally. Nevertheless, the need for prior legal regulation in this area arises due to the risks and consequences of cloning technology, which impact the current generation and the future. There are also noteworthy debates in scientific circles regarding the right to dispose of one's organs and tissues after death, particularly in the field of transplantology (Richardson & Turner, 2011; Langer *et al.*, 2012).

The practice of retrieving donor materials from deceased individuals varies in different countries worldwide. There are two main approaches to postmortem donation in the international community. In the first case, called "informed consent", consent for postmortem donation must be obtained during a person's lifetime, and/or such consent must be expressed by the deceased's relatives.The United States, the United Kingdom, Germany, and Ireland follow this approach. The second option, called "provided consent", is considered more humane in many countries. This approach assumes that people automatically become postmortem donors if they did not expressly object to it during their lifetime. For example, on January 26, 2016, France adopted a new law "On the Modernization of Healthcare System" (2016), according to which all deceased citizens aged 18 and older are automatically considered organ donors from January 1, 2017. The previous requirement for doctors to ask family members about the deceased person's intention to donate organs was abolished by the Public Health Code. A National Refusal Register was also introduced, where citizens who do not wish to donate their organs after death can record their decision. Thus, the legislative regulation of the right to dispose of one's organs and tissues has made significant progress, and this legal position is generally consistent with moral norms.

The implementation of information and communication technologies (ICTs) also creates new challenges for the realisation of fundamental human rights and freedoms. Terms such as "digital rights", "right to the virtual space", "right to the internet", "cyber-human rights", and others are encountered in scientific discourse. Digital human rights may include the right to access the internet, the right to be forgotten, the right to protection against unwanted information, and others. For example, in the context of ensuring human rights on the internet, a modern state must address three main tasks: not to hinder the free exercise of human rights through the internet and refrain from restricting them (e.g., avoid censorship); protect the lawful use of information and communication technologies from cyberattacks by others; and ensure and promote lawful access to information and communication technologies, including providing access to the internet for disadvantaged individuals (Sartor, 2017).

According to Y.S. Razmetayeva (2020), "digital human rights" has two meanings. The first involves understanding rights that are directly related to the use of digital technologies or contain a virtual component. The second demonstrates rights that are considered fundamental in the digital context. With this in mind, it can be argued that among the main digital rights are such fundamental principles as freedom of speech and expression, privacy, access to information, participation in governance processes, as well as rights such as the right to be forgotten, the right to anonymity, and even the right to access the Internet.

Thus, information and technology-driven social relations fundamentally transform modern reality. As a result, such reality becomes virtual; in other words, it acquires new images and personal characteristics and becomes metaphorically rich, which elevates the individual to a qualitatively different level of development and simultaneously immerses them in an environment of certain archetypes, narratives, symbols, and signs (digitalisation). Therefore, absolutely new human rights emerge, form, and begin to exist, and the tendency to change the legal status of a person is dictated by the dynamic conditions and rapid transformations of the present (Andrushenko, 2022).

It is reasonable to argue that individuals can and should control the impact that digital technologies have on social relations, including human rights. The mode of human rights can (and should) contribute to the development of a comprehensive understanding of regulating new technologies and serve as a "marker" for regulating information and communication progress, shaping the spectrum of goals to be achieved.

Thus, all the above-mentioned rights arising from scientific progress can conditionally be attributed to the rights of the fourth generation. However, discussions arise among politicians, scientists, and other members of society regarding the necessity and limits of implementing such rights. Notably, the Council of Europe, the EU, and some other international organisations have expressed clear positions on this issue. For example, the Charter of Fundamental Rights of the European Union (2000), Article 3, paragraph 1 states that everyone has the right to physical and mental integrity. Paragraph 2 of this article specifies certain requirements regarding the application of medical and biological advancements: (a) voluntary and properly documented consent of the person concerned in accordance with the rules established by law; (b) prohibition of eugenics, especially its part aimed at human selection; (c) prohibition of using the human body and its parts as a source of profit; (d) prohibition of human reproduction by cloning.

Criteria for recognition and vector of human rights development. An important criterion for the recognition and legislative consolidation of modern human rights is their value and moral component. It should be emphasised that along with the development of modern rights, societal and personal values change, and moral-ethical norms are transformed. Such changes depend on historical circumstances and the socio-cultural environment in which people live. It should be acknowledged that this variability and evolutionary nature contribute to the fact that values that have passed societal approval and are recognised in specific life conditions as the most effective remain "alive", while unstable ones are eliminated. As V.V. Borshchenko (2023) rightly noted, the negative impact of globalisation on values implies that these values acquire a purely conditional nature, meaning they can easily change under the influence of the environment. As a result, the development of so-called value relativism occurs, according to which all societal and personal values are balanced and considered equal. Consequently, value relativism is established, where all values acquire a relative nature and are recognised as equal while the criteria for their evaluation gradually diminish.

When considering moral values separately, it is quite understandable that each state and each nation form them in their own way, so they have a national character and differ. It is worth noting that morality, like religion, tends to change over time. However, although morality and religion were perceived differently in different historical epochs, they are still more stable than legal norms. According to M.V. Savchyn (2018), human rights are grounded in moral legal doctrine, where the main criterion is the justification of individual freedom. On the other hand, the perception of rights is possible through a procedural context based on ensuring equal access to legally protected material goods and spiritual wealth. Another aspect of understanding rights is a substantive approach that can reconcile the contradictions of moral and procedural approaches, thereby demonstrating law through human dignity.

It is important to agree with the position of O.I. Malozhon (2021), according to which, due to changes in globalisation, each state becomes dependent on certain principles of regulating social relations through the rights of the new generation. This means that the state, firstly, must ensure free access to the Internet and virtual reality as such; secondly, must not interfere with the religious and moral-ethical preferences of the individual (of course, if they do not contradict the law and do not pose a threat to the state and its citizens); thirdly, must establish and maintain a balance between respecting the rights of minorities and ensuring a favourable demographic situation; fourthly, must guarantee the individual the right to dispose of their own body and life, up to the right to a dignified death; fifthly, must not interfere with the human right to their uniqueness and identity (including that of an unborn child); sixthly, must stimulate scientific development based on the basic principles of bioethics – humanism and human-centeredness.

Clarifying the main trends in their development is important for the most profound and comprehensive understanding of human rights' existence and functioning in globalisation conditions. This allows determining not only the human rights of today but also the prospects and areas of their development in the future. M.Y. Shchyrba (2016) identifies several main features of modern changes in the institution of human rights and freedoms, including changes in the content of human rights influenced by global problems of globalisation, as well as the universalisation of human rights, difficulties and inconsistencies in the implementation of the mechanism of international regulation of human rights, a change in the subject of influence in the context of human rights, the mismatch of universally recognised human rights standards with new trends, and the granting of full-fledged subject status endowed with corresponding rights and freedoms to future generations.

A dominant position is that among the trends at the global level, the trend of universalisation and unification of human rights should primarily be distinguished. Such a seemingly logical decision, unfortunately, remains a subject of intense debate in the scientific sphere. The main problem is to find a balance (hybrid) of the universality of human rights. Representatives of the first "pole" emphasise that even under the conditions of modern large-scale globalisation, due to local and regional civilisation specificity, humanity is still not ready to establish universal approaches to human rights; universalisation, to some extent, contributes to the emergence of regressive changes in law, caused by excessive convergence of national legal systems. Representatives of the other "pole" adhere to the position that globalisation is an obvious dominant factor shaping common human interests and values, and based on this, the problem of creating a single universal system of rights for all humanity objectively arises (Blumenson, 2020).

It should be noted that the Vienna Declaration and Program of Action (1993) remains the basic document for the development of the universalisation of human rights, which provides that all human rights are universal, indivisible, interdependent, and interrelated. The world should perceive human rights (considering the processes and trends of globalisation) on the principles of equality and justice, with the same understanding, respect, and attention. Admittedly, one should not forget about the national and regional peculiarities of legal systems, that is, legal traditions. However, in doing so, each state (despite its political, economic, cultural, and other social systems) is obliged to guarantee and protect all human rights, fundamental freedoms, and legitimate interests.

This position is important in the context of each situation involving the realisation of human rights: it concerns the granting of a universal character to human rights within the world community, i.e., endowing them with globalisation opportunities in connection with political, economic, cultural, and other systems. In this context, the state should encourage and guarantee all human rights and freedoms. International standards should eliminate differences in the mechanism for implementing these rights and freedoms at both the national and supranational (global) levels, which will demonstrate and confirm their universality (Dashkovska, 2019).

Supporting the development trend of the universalisation of "fourth-generation" human rights, one should consider that, in the wave of globalisation, new human rights are being formed, which can only become "universal" standards over time. Currently, they are only gaining specification and testing for society's needs, undergoing "polishing" at the regional and national levels. The universalisation of human rights should only take place based on a pluralistic approach to these rights rather than abstract postulates.

Along with the trend of universalising and unifying human rights, the tendency to prioritise the principles of law as regulators of Public Relations is becoming more pronounced in the context of globalisation. This concerns not only the principles of international law but also the principles of relations that are formed and established, in addition to states and alongside them, among various subjects, which in the scientific literature are called "participants in globalisation" (international universal organisations, international non-governmental organisations, national and supranational institutions) (Tavis, 2002).

In addition to the aforementioned trends, there are other trends at the global and regional levels that manifest themselves in various forms. Particularly noteworthy is the trend of strengthening the role and significance of judicial law in protecting human rights at the supranational level. It is not accidental that the concept of forming a single "global jurisprudence" in the modern world, the goal of which is, firstly, to promote the process of universalisation and unification of human rights at the global and regional levels, and secondly, to attempt to preserve the "legal principles of national and local culture" and maintain a "balance of values" between individual independence and effective judicial governance (Slanghter, 2003), has become a reality and a working programme. In this aspect, special interest is drawn to progressive forms of protection emerging in the field of transnational information and communication technologies. Various online contracts, online platforms, online arbitration, blockchain arbitration, and other legal institutions are being adapted to or emerging from the new society, and the characteristics of such rights and relations include their connection with different legal systems, a high degree of autonomy of their participants, including in the choice of applicable law and dispute resolution method (Reed & Angel, 2011). Thus, regardless of legal systems, under the influence of objective circumstances, there is an increasingly evident trend towards strengthening the role of both judicial law and its sources in highlighting the level of human rights protection in particular.

Considering the trends in the development of globalisation in the field of human rights, it is important to recognise that globalisation depends on changes in national legal systems during wartime. Events during wartime are factors of ambiguous processes that were previously inconspicuous. Analysing this situation, it should be noted that two trends can be observed: firstly, globalisation processes do not cease during wartime, and there is a "confirmation of the recognition of the 'potential' of the globalisation paradigm and an understanding of their universal value in conditions of war" (Rogova, 2022). Secondly, there is a transformation of practically all subsystems of the national legal system, including normative and ideological ones (Vasiliev *et al.*, 2023). In addition, a factor influencing the development of the globalisation of human rights is the nature of the interaction between politics and law within national states and at the global level of international legal order. However, the situation during wartime does not always indicate adherence to universal legal principles in the implementation of state and international policies by aggressor countries.

Conclusions

Human rights should be considered a legal construct that establishes a system of "individual-state" relations in a given space and time, characterised by dynamic development, reflecting the historical evolution of the individual's place and role in society. Global processes significantly transform all generations of human rights, as their legal nature goes beyond the jurisdiction of one state and acquires international status. The so-called fourth generation of human rights is characterised not only by the transformation, modernisation, or inversion of the content of already universally recognised human rights but also by the development of new rights characterised by social and sometimes moral novelty. "New" human rights are based on modern achievements in scientific and technological progress, going far beyond the differentiation of national principles and historical and cultural character. Each such "innovation", most of which are currently limited regionally, has the right to exist and must undergo filtration by time and societal demand.

Global processes of society's digitalisation do not change human beings' essence, basic demands, and values. Therefore, human rights can (and should) become the target unified guidelines for determining the attitude towards various modern technologies, which involves analysing whether their use complies with fundamental human rights. Relativism in human rights, which denies the possibility of their universality, focuses on the primacy of diversity of beliefs and moral judgments and denies possible transculturality, which dissolves in globalisation. Respect for human beings is the foundation of human rights, and respect for the individual's cultural values is also required. This pluralistic ideal envisages a wide range of permissible actions and ways in this field. The goal of the universality of human rights is primarily the universality of their protection from injustice, while the pluralistic approach is the philosophy that arises from the need to understand, respect, and achieve consensus among individuals with different views and values. Key trends in the evolution of human rights within globalisation include the drive towards universalisation and standardisation, the complexification of international legal frameworks regulating human rights, and the enhanced role of judicial systems in safeguarding human rights at a supranational scale. Moreover, one cannot ignore the dependence of globalisation on the transformations of national legal systems during wartime.

The study mentions only a few facets of the evolution of new human rights paradigms influenced by globalisation within the legal domain, suggesting ample opportunities for deeper investigation. One promising area for exploration lies in analysing human rights, particularly in areas like neurotechnologies, which may lead to the development of legislative frameworks such as neuro-law.

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Conflict of interest

None.

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Анотація. Права людини вийшли за межі взаємовідносин особистості з державою, перетворилися на конструктивний елемент державно-правових систем та сприяють інтеграції суспільних і правових відносин, що призводить до виникнення раніше не відомих прав людини. Тому необхідно розвинути юридичне уявлення про них з урахуванням сучасних реалій. Метою дослідження є опис та змістовна характеристика новітніх прав людини в рамках загальної теорії права і держави. Методологічною основою дослідження стали цивілізаційний та соціально-філософський підходи, в межах яких використано методи аналізу, синтезу та моделювання. Сутність виділення поколінь прав людини зводиться до послідовного усвідомлення та розрішення проблем правого статусу людини у дійсності, що змінюється. Суспільні відносини, що ускладнюються з історичним розвитком, будуть обумовлювати нові проблеми у сфері правого статусу особи. Звертається увага на тісний зв'язок прав людини зі сферою охорони здоров'я, що виник внаслідок наукових і технологічних досягнень у біології та медицині, йдеться про права на штучне запліднення, евтаназію, трансплантацію органів, клонування та зміну статі. Проаналізовано вплив на фундаментальні права людини через цифровізацію права. Уявлення про універсальність прав людини гармонійно взаємодіє зі всезагальністю цифрових технологій, тому в епоху цифровізації зміст прав людини та пов'язаних з ними цінностей не змінюється, і саме права людини можуть стати уніфікуючою цільовою перспективою при визначенні ставлення до нових технологій. Моделюються основні тенденції розвитку прав людини в умовах глобалізації, до яких належить універсалізація та уніфікація прав людини, ускладнення механізмів забезпечення прав людини на міжнародному рівні, посилення значення судового права щодо захисту прав людини на наднаціональному рівні. Акцентовано на залежності глобалізаційних процесів від перетворень національних правових систем в умовах війни. Практичне значення роботи полягає у можливості врахування тенденцій розвитку прав людини в умовах глобалізації в окремих темах навчальних курсів з теорії держави та права, філософії права та для розробки відповідних навчально-методичних матеріалів

Ключові слова: цифрові права; соматичні права; гендерна автономія; евтаназія; донорство; трансплантація органів; глобалізація; права людини

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Peculiarities of the formation and application of the institute of diversion (diverting) of children from criminal justice in the Kyrgyz Republic

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Abstract. Ensuring the rights and interests of juveniles involved in criminal activities is one of the priority tasks of the criminal justice system, but deprivation of liberty continues to be the most common punishment for children. The purpose of the study presented in this article is to determine the specifics of diversion (diverting) of juveniles from criminal justice and to consider the peculiarities of this legal institution in the justice system of the Kyrgyz Republic. The research employed both general scientific and specific legal methodologies, including logical-semantic, dialectical, abstract-logical, system-functional, historical, system-structural, comparative legal, and information legal methods. The study included consideration of the concept of diversion (diverting) of children from criminal justice, its difference from similar institutions (probation). The factors that determine the need for the earliest possible diversion (diverting) of a child from criminal justice, due to his or her age-related psychophysiological characteristics, were identified. International standards in the field of protecting children, particularly those related to the practice of diverting children from the criminal justice system, are considered. The main aspects of implementing international law on diversion of children within Kyrgyzstan's legal framework are identified and analyzed, alongside an examination

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of relevant provisions in national legislation. Drawing from the experiences of countries like Poland and Georgia, which have successfully implemented this legal mechanism, areas for potential improvement in the regulatory framework are identified. These include defining characteristics of the diversion process such as applicable stages, eligible offenses and age criteria for offenders, as well as the integration of mediation alongside diversion practices. Based on the results of the study, amendments to the national legislation of Kyrgyzstan are proposed, which can be used in the process of drafting bills to improve national legislation on juvenile justice and justice for children

Keywords: juvenile delinquency; probation; crime prevention; juvenile justice; children's rights; educational measures; justice for children

Introduction

The problem of respecting the rights of juvenile offenders is one of the most pressing issues in the field of child rights protection in general and is of a global nature. Diverting a child from the criminal justice system during the shortest time is one of the priority tasks of juvenile justice, as it not only promotes the the child's best interests based on the age particular qualities, but also corresponds to the national interests of any country, reducing the risk of recidivism and contributing to a more successful reintegration of children into society. At the same time, however, the number of criminal sanctions imposed on children continues to be high, which not only does not meet international norms concerning children's rights, but also can increase crime rates. For example, data presented in the General Assembly report "United Nations Global Study on Children Deprived of Liberty" (2019) implies that the quantity of minors incarcerated in detention facilities and prisons each year is around 410,000.

Conducting a comprehensive study on diverting (diverting) children from criminal justice, M.R. Lubis and P.P. Siregar (2021) identified a number of factors that influence the possibility of applying this legal instrument. These include objective factors such as the admissibility of diversion (diverting) for a criminal offence under a specific article of the criminal law, the age of the person, the existence of a confession to the criminal offence, and the subjective factor of the child's attitude to the offence committed and remorse for his or her actions. The totality of these factors serves as a basis for the application of diversion (diverting) of the child from criminal justice, which is many times better for the child, whereas court proceedings should be considered only as a last resort when dealing with juvenile offenders. At the same time, it is noted that the diversion (diverting) of children from criminal justice should be seen as part of a complex system. Thus, R. Green *et al.* (2019) point to the need for a systemic approach, where the practice of using this mechanism is closely linked to general measures of prevention and social control, early detection of the possibility of delinquent behaviour of children and adolescents.

A number of studies in Kyrgyz legal science have been devoted to juvenile justice reform and ensuring children's rights. For example, A. Tashtanbek kyzy (2023), pointing to the vulnerability of children to the criminal justice system, said that the problem of children's interaction with the criminal justice system should be seen as a global issue requiring attention at both the national and international levels in order to clearly the limits of the impact of the criminal justice system on children. The study by S. Baktiyarova and Kh. Baktiyarova (2021) focuses on the characteristics of child offenders, determining the factors influencing child delinquency and recidivism. The study reveals the peculiarities of children's psyche, points out the problem of children's legal ignorance, the influence of the environment on criminal behaviour and previous experience on the level of recidivism. Thus, the study reveals the issues of assessing the personality of a child offender, which must be taken into account when choosing measures of legal impact, which is of fundamental importance for the protection of children's rights and the organization of the work of the juvenile justice system.

The need to take into account the age of the offender during investigative actions and the negative impact on his or her psyche in connection with being in the criminal justice system is also mentioned in the study of I.K. Yusupaliev (2020). The author points to a number of points of ensuring the rights and legitimate best interests of the child during interrogation, in particular – a special procedure for summoning the child to the investigator, ensuring the participation of the defence counsel. An important point is that the the interests of the child may be contrary to those of his or her legal representatives, which also needs to be taken into account. The subject of of diversion (diverting) is closely related to the issue of criminal justice reform for children (Yusupova, 2022). Thus, K.U. Kirimova (2021) points to the need to exclude sharp reactions to children's offences and minimize the use of measures related to their isolation from society. At the same time, the researcher draws attention to the need for a strategic vision of the problem of child crime prevention, which in general is a component of the reform of juvenile justice in Kazakhstan.

Attention should also be paid to the conclusions on the specificity of the principles of juvenile justice made by Kh. Abdurazakov *et al.* (2022), who, in addition to pointing to the need to build a juvenile justice system based on its protective orientation, point to the need to include informal elements in the basis of criminal proceedings against children and to take full account of the child's personality. The conclusions presented regarding development of the child justice system, the humanization of the criminal justice system and measures for the re-socialisation of convicted persons through the use of probation are important characteristics of the current state of protection of the juvenile offenders' rights. At the same time, they are more related to the problems arising from the involvement of children in the criminal justice system, while the issue of diverting (diverting) children from criminal justice, which is also related to the reform of juvenile justice, remains insufficiently researched today (Dmytrenko, 2023).

The Children's Code of the Kyrgyz Republic (2012) and the amendments made to criminal and criminal procedural legislation have made it possible to create a system of legal regulation of the institution of diversion (diverting) of children from criminal justice that meets international standards. The purpose of this study is to determine the specifics of the development of the institution of diversion (diverting)

of children from criminal justice in the Kyrgyz Republic. In order to achieve this goal, the following tasks were set: to consider the peculiarities of this legal institution in general and in the justice system of Kyrgyzstan, to analyse the legal regulation of this institution by national legislation, to identify contradictions and gaps in such regulation and to develop proposals for their elimination.

Materials and methods

The choice of methods for this study was determined by its purpose and objectives. A combination of general scientific and special methods was used to solve individual tasks. When considering the concept of diversion (diverting) of children from criminal justice, the logical-semantic method was used, which became the basis for further study of this legal institution with the help of the dialectical method as a whole as a way to protect the rights of young offenders. With the help of the system-functional method, the peculiarities of application were studied, the legislative prerequisites determining the possibility of its application and guarantees of the rights of the child in the application of diversion (diverting) from criminal justice, the procedural consequences of the application of the relevant legislative norms, as well as the consequences of non-compliance with the conditions associated with the implementation of an individual programme of re-socialisation of the child were determined. This method was also used to identify areas for improving national legislation in the area under consideration.

The historical method was used to study some moments of the juvenile justice reform process and the formation of the institution of diversion (diverting) of children from criminal justice in the Kyrgyz Republic. Using statistical data, changes in the dynamics of sentences concerning children were shown. In combination with the formal-logical method, the legislative norms that became the basis for reforming juvenile justice in the Kyrgyz Republic and introducing the institution of diversion (diverting) of children from criminal justice were studied. With the help of the system-structural method the place of the institution of diversion (diverting) of children from criminal justice in the system of other alternative measures of influence on children in conflict with the law was studied. The comparative-legal method was used for conducting a study of the compliance of the norms governing the application of this legal institute in the legislation of the Kyrgyz Republic with international standards. This method was also used to study the relevant experience of other countries (the Republic of Poland and the Republic of Georgia). Based on the results obtained, the norms that could be borrowed to improve the national legislation were identified. The information-legal method and the methods of analysis and synthesis were used to study normative legal acts, statistical data, as well as studies in academic literature on the protection of the rights of children in conflict with the law and the institution of diverting children from criminal justice. On the basis of the information obtained, generalized conclusions were drawn on the specifics, effectiveness, and expediency of the use of this institution.

The information base for the study was statistical data on the state of child crime in the Kyrgyz Republic (National Statistical Committee of the Kyrgyz Republic, 2022), international legal instruments in the area of children's rights – Declaration of the Rights of the Child (1959), Convention of the Rights of the Child (1989), United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (1985), United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (1990), Guidelines for Action on Children in the Criminal Justice System (1997), legal and regulatory framework of the Kyrgyz Republic – State Programme for the Development of Justice for Children in the Kyrgyz Republic for 2014-2018 (2014), Children's Code of the Kyrgyz Republic (2012), Criminal Code of the Kyrgyz Republic (2021), Criminal Procedure Code of the Kyrgyz Republic (2021). The empirical basis of the study was the works of Kyrgyz and international legal scholars.

Results

Theoretical aspects of the appropriateness of diversion (diverting) children away from criminal justice. The diversion (diverting) from criminal justice is seen as one of the ways to protect children who committed a crime and is an integral part of juvenile justice reform and a continuation of the development of alternative, non-punitive, ways of influencing young offenders behaviour, including compulsory educational measures (probation) and mediation. The essence of diversion (diverting) from criminal justice is to apply to children in conflict with the law alternative means of influence to criminal prosecution, aimed at forming legal awareness, preventing the commission of repeated offences, and not entailing negative legal consequences in the form of a criminal record.

The need to divert children away from the criminal justice system is determined not only by the humanistic aspirations of society, but also by the specifics of the child's mental development, the consideration of which is a necessary condition for the effectiveness of measures of influence in the application of criminal punishment, and also makes it possible to increase the efficiency of the criminal justice system by reducing the workload and thus allowing more resources to be allocated to solving problems associated with the commission of more serious offences. A child's contact with the criminal justice system is often associated with (and leads to) a restriction of liberty, which is why the modern approach to the use of criminal justice measures for children is based on the concept that the earliest possible removal of a child in conflict with the law from the criminal justice system is necessary (Diversion of Children…, 2022). Thus, international law (1989) states that deprivation of liberty should be used only as a last resort and as soon as possible. At the same time, according to UNICEF statistics, the use of deprivation of liberty for children continues to be high, with 261,200 children in detention worldwide in 2020, while in 18 of the 159 countries in the world, a child can be held criminally responsible from the age of seven, and the age of criminal responsibility below 14 years is set in 77 out of 159 countries (Estimating the number…, 2021). The failure of the law enforcement system to comply with international standards to minimize the child's contact with the criminal justice system in this way, to ensure that the case is dealt with as quickly as possible, has a range of negative consequences for both the child and society as a whole. Such consequences are related to age-related peculiarities that require special attention and consideration.

Child delinquency, especially in adolescence, is common and often does not require punitive measures to correct behaviour (Wilson *et al.*, 2018). Moreover, custodial

sentences often fail to produce the expected corrective outcome (Lambie & Randell, 2013). In addition to low educational effectiveness, due to the nature of the child's psyche, deprivation of liberty during the investigation of a case or as a method of punishment for criminal offences can have much more severe consequences for a child than for an adult, exacerbating existing and creating new physical, psychological, and emotional health problems, as well as influencing subsequent behaviour (Gordon, 2022). Research shows that the most frequently cited negative consequences of criminalization for adolescents are the inability to manage their time, loss of social connections and contacts, loss of dignity and self-esteem and, finally, complete loss of self (Sandoy, 2020). These consequences are not only related to the fact of incarceration, but can occur at all stages of the case. In addition to the general destabilization of the mental state, including the risk of suicidal ideation, depression and anxiety, there are also behavioural characteristics of children that may cast doubt on the reliability of the information on which the investigation's conclusions are based, thereby causing negative legal consequences for the child (Alfonso, 2022).

Under the pressure of law enforcement and uncertainty about their future, the child is more inclined to engage in ill-considered behaviours whose sole purpose is to seek to complete the criminal process as soon as possible, regardless of the consequences. Such behaviour is due to both physiological and psychological peculiarities affecting children's perception of time, as well as to their poor ability to predict the consequences of their actions due to a lack of necessary knowledge, including legal knowledge. On the other hand, the protracted nature of the investigation may have a negative impact on the child's perceptions of the seriousness of their misdemeanour towards its minimization, which significantly increases the likelihood of re-offending and serious negative consequences for their future life (Teeuwen, 2019). The likelihood of reoffending is largely due to the fact that being in the criminal justice system results in a child being more likely to continue to associate with delinquent peers, drop out of school, not learn to manage aggression, and have low self-esteem (Cauffman *et al.*, 2020). At the same time, the use of diversion (diverting) of children from criminal justice provides an opportunity to avoid the negative consequences of the official consideration of the case, in particular, those related to the fact of the presence of a criminal record (United Nations Standard…, 1985).

Thus, diversion (diverting) is part of an overall system of measures aimed at minimizing a child's contact with the criminal justice system. Its principal difference from such measures as the imposition by the court of a lighter sentence, the use of educational measures or the institution of probation is the complete removal of the child from the system, including in the legal sense. Thus, it is not only the absence of formal proceedings on the fact of the offence committed by the child, but also the absence of a criminal record, which is important for the child's return to society.

International standards underpinning the diversion (diverting) of children from criminal justice. International instruments relating to children's rights consistently uphold the principle of age-appropriate special care and protection for children. This is explicitly stated in the Declaration of the Rights of the Child (1959), which refers to the need for children to require special treatment and attention to their rights, including legal protection, given their physical and mental immaturity. This general principle of treatment of children is reflected in more recent international agreements, including norms relating to children's interaction with the criminal justice system. Thus, the International Covenant on Civil and Political Rights (1966) contains not only general rules on the right to trial within a reasonable time or release and that detention should not be the general rule (art. 9, p. 3), the right to be tried without undue delay (art. 14, p. 3), but also a provision on the need to take account of age when dealing with children and the need to promote their re-education (art. 14, p. 4). The Convention on the Rights of the Child (1989), in article 3 (1), obliges all public authorities to act in the best interests of children, for which the necessary legislative framework must be in place (art. 4). It contains rules aimed at ensuring the rights of young offenders. In particular, human rights and other legal safeguards should be strictly respected when deciding on juvenile offenders bypassing the judicial system.

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (1985) are a complementary tool for ensuring the rights of juvenile offenders. The Rules were the first international instrument to use the concept of diversion (diverting) of children from criminal justice and to propose measures and procedures for such diversion (Diversion of Children…, 2022). Key provisions of the Beijing Rules include the need to minimize legal intervention in addressing the problems arising from offences committed by adolescents, for which Member States should make maximum efforts to mobilize alternative sources of intervention. Diversion of children from criminal justice is addressed in paragraph 11 on "Diversion", according to which law enforcement agencies should make maximum use of opportunities to avoid formal proceedings for offences committed by children. To this end, the law should provide them with appropriate powers to do so. It is also stipulated that certain safeguards must be in place, in particular that the consent of the child himself or herself or his or her legal representatives is required for diversion (diverting) from criminal justice. The application of this provision is mandatory, as it ensures compliance with the Abolition of Forced Labour Convention (1957). Furthermore, the consent of the child or his or her legal representatives must be fully consistent with his or her internal will and not be the result of pressure, fear or other factors. The Rules also include the need to ensure that diversion (diverting) of children from criminal justice can be operationalized through community-based programmes. Importantly, the diversion (diverting) of children from criminal justice is possible at any stage of the criminal justice process and all competent authorities involved should have the necessary authority (United Nations Standard…, 1985).

Another supportive tool for ensuring the rights of juvenile offenders is the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (1990), which, in section VI on child justice, indicate the need for law enforcement officials to maximize the use of available opportunities and programmes to minimize children's exposure to the justice system. Also in the system of international instruments relating to the diversion (diverting) of children from the criminal justice system are the Guidelines for Action on Children in the Criminal Justice System (1997). The Vienna Guidelines indicate the need

to provide alternative methods to divert children from the criminal justice system at any stage of the process by resorting to informal means of conflict resolution, including mediation (p. 15). Isolation of children in closed institutions should be used only as a measure of last resort (p. 18).

Thus, the system of international standards in the area of diversion (diverting) of children from criminal justice is now an integral part of the international system for the protection of children's rights, and its implementation in the system of national legislation can be seen as a necessary action to fulfil the international obligations of the parties to the relevant conventions.

Regulation of diversion (diverting) of children from criminal justice by the legislation of the Kyrgyz Republic. Research shows that of the twelve post-Soviet countries, only Georgia and Kyrgyzstan have had some success in implementing diversion programmes for children from criminal justice (Muradyan *et al.*, 2020). Diversion (diverting) of a child from criminal justice is defined by the national legislation of the Kyrgyz Republic as a procedure for committing offences, an alternative to criminal prosecution, aimed at promoting the development, improving the legal culture and legal education of the child, and preventing the child from re-offending (Criminal Procedure Code…, 2021). In 1994, the Kyrgyz Republic ratified the Convention on the Rights of the Child (1989), which made the Convention part of Kyrgyzstan's national legal system. Fulfilment of the international obligations undertaken required the implementation of the norms of the relevant international standards into national legislation, the revision of approaches to the construction and functioning of the juvenile justice system, and the creation of a child-friendly criminal justice system.

The first legal act aimed at reforming the juvenile justice system in connection with the ratification of the Convention was the Children's Code of the Kyrgyz Republic (2012), which contains Chapter 11 "Specifics of the protection of children in conflict with the law". Article 86 of this chapter contains the concept of juvenile justice and indicates the need to take into account the gender, age, mental, physical and psychological development of children when applying measures related to their violation of the law. Article 87, paragraph 3, also points to the exceptional nature of the application of preventive measures and custodial sentences to children, and the minimization of custodial sentences, both in terms of application and duration, is defined as one of the principles of the juvenile justice system (art. 90).

An important novelty of the Code is that, in addition to the general principles for the treatment of children in conflict with the law, article 96 of the Code provides for the possibility of applying a diversion programme. The conditions for the application of the programme are that the offender must be between 16 and 18 years of age; the offender must have committed a minor or less serious offence; the offender must admit his or her guilt; and the child offender or his or her legal representatives must consent to the programme. Thus, these legal provisions are fully in line with the Beijing Principles (United Nations Standard…, 1985). The application of the Programme is initiated by the territorial unit of the authorized child protection authority, and the decision itself is taken by the prosecutor or the court. If the child fails to comply with the programme, the territorial unit of the authorized child protection authority submits an application to the prosecutor, who decides whether to reopen the criminal case.

There is a different approach with regard to the types of offences in which the diversion (diverting) of children from criminal justice is allowed. The experience of other countries has examples of more lenient regulation than that provided for by the legislation of the Kyrgyz Republic. Thus, for example, the Code on Justice for Children (2015) of the Republic of Georgia, establishing such a way of diverting a child from criminal justice as persuasion, allows its application in the case of a child committing a less serious or serious crime, while the legislation of the Kyrgyz Republic establishes the possibility of applying a programme of diversion (diverting) from criminal justice for children who have committed a crime of minor gravity and less serious crimes (Children's Code of…, 2012).

It should be noted that no clear conclusion can be drawn as to the effectiveness of including serious offences in the list of offences for which diversion (diverting) from criminal justice is possible. For example, statistical data of the Ministry of Internal Affairs of Georgia (2024) regarding such type of offence as robbery (Table 1) show the absence of any persistent downward trend after the adoption of relevant legislative provisions.

Table 1. Statistics of registered criminal offenders under part 3 of Article 178 (robbery) according to the Ministry of Internal Affairs of the Republic of Georgia

2017	2018	2019	2020	2021	2022	2023
8	13	18	7	8	4	9

Source: Ministry of Internal Affairs of Georgia (2024)

It should also be noted that the institution of diversion (diverting) of children from criminal justice is often linked to the institution of mediation. For example, the Code on Justice for Children (2015) of Georgia refers to the possibility of using persuasion alone or together with mediation. Article 3-a of the Juvenile Justice Act (1982) of the Republic of Poland also refers to the possibility of referring a case at any stage of the proceedings to an institution or a trustworthy person. Since mediation and diversion (diverting) from criminal justice are considered as two main alternative procedures to court proceedings, their use in one process seems to be fully justified (Meurmishvili, 2023).

In 2014, the Kyrgyz Republic adopted the State Programme for the Development of Justice for Children in the Kyrgyz Republic for 2014-2018 (2014). The aim of the programme was to ensure the practical implementation of the provisions of the Children's Code and the fulfilment of the international obligations undertaken by the Kyrgyz Republic, including in the area of protecting the rights and interests of young offenders. The Programme reiterated the need to ensure the principle of using custodial sentences for children only as a last resort and to ensure the development of alternative measures to divert children in conflict with the law from the criminal justice system. A crucial stage in the

development of the institution of diverting children from the criminal justice system was the introduction of amendments to the criminal and criminal procedure legislation of the Kyrgyz Republic. Thus, the main points of the new Criminal Code of the Kyrgyz Republic (2021) are chapter 17, "Special features of the criminal liability of children", namely article 97, which establishes the possibility of exempting a child aged 16 to 18 from criminal liability in connection with the application of measures to divert him or her from the criminal justice system. The provisions of article 97 of the Criminal Code are similar to those of article 96 of the Children's Code, discussed above.

The procedural aspects of the procedure for removing (diverting) juvenile offenders from the official criminal proceeding are specified in the Criminal Procedure Code of the Kyrgyz Republic (2021). In particular, article 467, while granting the investigator the right to rely on the assumption that a child has committed a less serious offence for the first time, requires him or her to motivate his or her decision and to take into account a range of circumstances, including both the best interests of the child and the totality of other circumstances, including the nature and gravity of the act committed, age, degree of guilt, amount of damage and the child's reaction to the offence. For example, two groups of factors are identified as causes of juvenile delinquency in the Kyrgyz Republic. The first includes external circumstances, such as economic problems and low levels of parental control. The second group of factors consists of the low level of legal education of adolescents, who, on the one hand, often do not assess their actions as illegal, and on the other hand, have a poor understanding of the possibility of protecting their rights (Otorbaev, 2018). Thus, the decision-making process requires a full and comprehensive study not only of the criminal offence committed by the child, but also of the circumstances preceding its commission, as well as the child's own personality. It is also indicated that diversion (diverting) from criminal justice is carried out together with the application of probation supervision or the application of coercive norms of an educational nature. The Criminal Code of the Kyrgyz Republic (2021) defines the latter as placement under supervision with a warning and restriction of behaviour with a warning. These measures may be applied separately or simultaneously (art. 99).

The criteria for determining the admissibility of measures applied to a child in connection with diversion (diverting) from criminal justice include their reasonableness and proportionality to the criminal act committed by the child, as well as the inadmissibility of measures that undermine the child's honour and dignity, are harmful to the child's physical or mental health, or have a negative impact on the child's ability to participate in the educational process. In addition, the measures applied when diverting a child from criminal justice may not be more severe than the minimum penalty prescribed by criminal law for the act committed by the child (art. 470) (Criminal Procedure Code…, 2021). The investigator issues a ruling on the diversion (diverting) of a child from the criminal justice system, and a contract is signed between the investigator, the child, the child's legal representatives, a lawyer and an official of the authorized State agency for the protection of children. The ruling and the agreement are subject to approval by the public prosecutor. The Act establishes the possibility of appealing against the refusal of an investigator or procurator to remove a child from criminal proceedings, as well as the possibility of appealing against the decision and the agreement by the victim.

An important provision on guarantees of the rights of the child during diversion (diverting) from the criminal justice system is not only the provision on the need for consent and the provision on the need to provide the child and his or her legal representatives with full information on the nature and procedure for diverting the child from the criminal justice system, but also the provision established in article 469 (3) of the Criminal Procedure Code of the Kyrgyz Republic (2021) on the inadmissibility of using against him or her in court the child's confession of having committed an offence and the information gathered about him or her in the criminal proceedings. Thus, the national legislation of the Kyrgyz Republic establishes additional guarantees which, in addition to protecting the rights of the child, may also act as an incentive for the child's active participation in the investigation. Statistics show a downward trend (except for a slight increase in 2020-2021) in the number of convicted persons aged 14-17 (Fig. 1). The same trend is observed with regard to the percentage of convicted children to those over 18 years of age (Fig. 2).

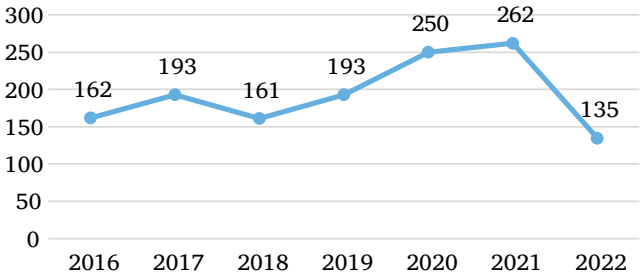

Figure 1. Dynamics of the number of convicts aged 14-17 for the period from 2016 to 2022

Source: compiled by the author based on the data of the National Statistical Committee of the Kyrgyz Republic (2022)

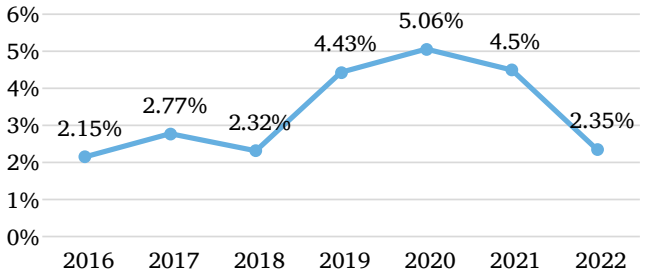

Figure 2. Dynamics of the number of convicts aged 14-17 for the period from 2016 to 2022 as a percentage of convicts over 18

Source: compiled by the author based on the data of the National Statistical Committee of the Kyrgyz Republic (2022)

While noting that the legal regulation of the institution of diversion (diverting) of a child from the criminal justice system in the Kyrgyz Republic can be assessed as being in line with international standards both in the area of protection of children's rights in general and with regard to the regulation of diversion (diverting) of children from the criminal justice system, it is also necessary to highlight some provisions of the legislation that require further improvement. For example, article 5 of the Criminal Procedure Code (2021) refers to specialized investigators, prosecutors, and judges for children and makes it mandatory for them to undergo specialized training. However, the current national legislation has a gap in regulating the procedure for such training, which makes this provision, firstly, more of a declaratory measure and, secondly, implies an arbitrary procedure for the training of specialists, which does not ensure the necessary quality of training. Supplementing this provision with legislation on determining the procedure for specialized training (with its subsequent development) would make it possible to regulate and improve the training of specialists in the field of juvenile justice.

The provision on the possibility of removing (diverting) children from criminal justice by the court with the use of compulsory educational measures or probation supervision; article 467(2) of the Criminal Procedure Code (2021) also requires clarification. This issue is broader than just the regulation of diversion (diverting) of children from criminal justice by Kyrgyz legislation, as it relates to the understanding of the institution of diversion (diverting) of children from criminal justice in general. On the one hand, for example, the Vienna Guidelines indicate that children can be diverted from the criminal justice system at any stage of the process, but on the other hand, at the stage of court proceedings, the child is already involved in the criminal justice system, which may lead to a certain confusion between diversion and probation (Guidelines for Action…, 1997).

Another important issue is the age at which the institution of diverting a child from criminal justice can be applied. The current legislation of the Kyrgyz Republic states that diversion (diverting) from criminal justice applies to children between the ages of 16 and 18, while the Criminal Code of the Kyrgyz Republic (2021) (art. 96, p. 2) provides for the possibility of imposing punishment, applying compulsory educational measures or establishing probation supervision on a child aged 14 or older. It should be noted that issues relating to the stage of criminal proceedings at which diversion (diverting) of children from criminal justice may be applied, the types of offences for which it may be applied, and age are among the general characteristics of the institution of diversion (diverting) of children from criminal justice, so that their unambiguous regulation by international standards and national legislation is essential to ensure the effective functioning of this legal institution.

Discussion

As an integral part of international standards in the field of child rights, and being quite widespread in the world, the institution of diversion (diverting) of children from criminal justice continues to be the subject of debate. On the one hand, juvenile delinquency is recognized as a global phenomenon, while on the other hand, it is pointed out that the legislator's response to it is conditioned by a multitude of factors. K. Neisse and S.S. Singer (2020), for example, point to the commonality of treating child offenders differently from adults, while the concept of juvenile delinquency and the justice system itself remain different. The study confirms this thesis, pointing to the existence of different approaches regarding the definition by the legislator of the types of offences in the commission of which the tools of the institution of diversion (diverting) of children from criminal justice can be applied, as well as age. Also speaking, for example, about the stages at which it is possible to talk about the diversion (diverting) of children from criminal justice, it should be noted that not always the earliest diversion (diverting) is assessed as an effective tool (Spytska, 2023a).

Thus, A.R. Hambali and Z. Zainuddin (2023), considering diversion (diverting) from criminal justice not only as a legal institution but also as a component of the police strategy to combat local crime and to shift the focus from punishing the offender to restoring the state that existed before the offence was committed, concluded that the effectiveness of this legal mechanism by the police was low. At the same time, this statement can hardly be considered a general rule for the institution of diversion (diverting) of children from criminal justice in general, but rather indicates the need to take into account local specifics (Shevchuk *et al.*, 2022; Vatral, 2023).

Also, relevant is the question of the limits of the use of diversion (diverting) of children from criminal proceedings. Thus, in the study presented by D.B. Wilson *et al.* (2018), the authors draw attention to the fact that inappropriate behaviour in adolescence should be considered rather as a variant of the norm, so law enforcement agencies should avoid involving children in the criminal justice system in case of minor offences, as such involvement may have the opposite effect, leading to the intensification of antisocial behaviour in the future. At the same time, researchers point to the need to establish an optimal level of response, as an overly lenient response can also have a negative effect.

L. Polglase and I. Lambie (2023) also point out that diversion (diverting) children away from the criminal justice process will have no effect if there is a propensity for persistent marginal behaviour and rule breaking. Thus, taking into account the child's personality not only from the point of view of child psychology, but also from the position of assessing the established behavioural habits, his motivation regarding the correction of the situation arising from the criminal offence committed by him will be of great importance when deciding on the expediency of diverting (diverting) the child from criminal proceedings. Moreover, P. Santiago *et al.* (2023) point out that understanding the circumstances that preceded a child's commission of an offence is an important prerequisite for the effectiveness of diversion measures.

L. Gittner *et al.* (2023) point to situations where diversion (diverting) from criminal justice is a necessary measure in the presence of developmental disabilities, thus creating an overlap between different disciplines within the same process. Taking these circumstances into account and being able to recognize them also requires specialized knowledge on the part of those involved, on the part of the law enforcement system. On the one hand, these factors are reflected in the national legislation of the Kyrgyz Republic, which establishes the need to take into account a number of circumstances (the best interests of the child, the nature, and gravity of the act committed by the child, age, degree of guilt, amount of

damage, and the child's reaction to the offence committed by the child) when making a decision to divert a child from criminal justice (Criminal Procedure Code..., 2021). On the other hand, taking into account these circumstances require not only legal knowledge, but also taking into account the peculiarities of child psychology, which confirms the conclusions made in the study of legal regulation of the institution of diversion (diverting) of a child from criminal justice in the Kyrgyz Republic about the need to improve the legal regulation of training specialists for juvenile justice. Thus, diversion (diverting) of children from criminal justice should be considered not only as a legal institution, but also as a set of strategies aimed at identifying the best way for the law enforcement system to respond to children's offences (Spytska, 2023b).

It should be noted that the main focus in considering issues related to the diversion (diverting) of children from criminal justice is on procedural issues. At the same time, the effectiveness of this institution is largely determined by how effective the diversion programme itself will also be. Thus, in researching the effectiveness of restorative justice and the institution of diversion (diverting) from criminal justice, in particular, J.S. Wong *et al.* (2016) point to the need to pay special attention to the programme component, including parental involvement, as well as taking into account in the definition of the programme all the same factors that are taken into account when deciding on the possibility of using diversion (diverting).

In the context of programme design, N. Maxwell and D. Ablitt (2022) also draw attention to the effectiveness of using a tool such as peer mentoring, which also includes experience of criminal offending. The researchers point out that peer mentoring is often a key mechanism in making a programme work, as peer mentors are more trusted and more easily perceived as role models than adults. They also demonstrate through their own experience the possibility of success, which is an important motivating factor for children starting the programme.

J. Connolly (2022) also points to the need for a standardized evaluation system for a programme, which would allow for standardized monitoring of outcomes to determine the success of the programme. For this purpose, a database should also be created for all programme participants, reflecting the main characteristics of the participants both before and during the programme.) In addition, the researcher points out that it should be possible to extend the duration of the programme at the initiative of the participants.

In general, one may agree with the position of B. Ozturk *et al.* (2022). that the diversion (diverting) programme has an interdisciplinary nature. Thus, the programme itself is an important component of the functioning of the institution of diversion (diverting) of children from criminal justice and should be considered as a subject of legal regulation, as its results may have legal consequences for children subject to diversion (diverting) (in particular, failure to comply with the programme may become a basis for the continuation of proceedings). At the same time, the study showed that the national legislation of the Kyrgyz Republic does not disclose approaches to the formation of diversion programmes for children. Moreover, these programmes have not yet been developed in practice.

Conclusions

The diversion (diverting) of children from criminal justice is an important mechanism for law enforcement to act in the best interests of the child and to maximize respect for the child's rights. The need to divert children from criminal justice corresponds to their age, physical and psychological characteristics, avoiding negative consequences for both the child and society as a whole. An analysis of the provisions of international standards in the area of diversion (diverting) of children from criminal justice and the national legislation of Kyrgyzstan regulating this issue allows talking about several blocks that make up the content of this institution. Thus, the first block includes such formal conditions for the diversion (diverting) of a child from criminal justice as the stages of consideration of the case at which such diversion (diverting) is possible, age, and types of offences for which such diversion (diverting) is allowed. The second block includes guarantees of rights in the application of diversion (diverting), such as the consent of the child or his or her legal representatives and the rule that information obtained during diversion (diverting) proceedings cannot be used in court. The third block includes organizational and procedural issues related to the authority and training of persons empowered to make a decision on diversion (diverting) and the preparation of relevant programmes.

The national legislation of the Kyrgyz Republic generally meets the UN Standard Minimum Rules for the Administration of Justice for Children. At the same time, the issues of the types of offence for which diversion (diverting) may be applied, the need to lower the age of children to whom diversion (diverting) may be applied from 16 to 14 years of age, and the clarification of the stages of the process at which diversion (diverting) may be applied to remain debatable.

Diversion (diverting) of children from criminal justice, while generally a necessary tool for ensuring the rights of the child, requires at the same time the consideration of many factors in its application. Thus, in addition to its general characterization as a legal institution in the field of juvenile justice, diversion (diverting) of children from criminal justice is, from the point of view of practical application, a set of strategies for assessing the relevance of the application of this institution to the circumstances of the case and the child's personality. This area requires further research on diversion (diverting) as a set of strategies aimed at identifying the optimal law enforcement response to child offences, which should result in specific methodologies. In addition, it is necessary to develop amendments to the Code of Criminal Procedure and the Procedure for Interagency Cooperation between Participants in Criminal Proceedings during diversion (diverting), as well as to develop a mechanism for child-friendly procedures, which include specialization of participants and special rooms for investigators and children.

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Conflict of interest

None.

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Анотація. Забезпечення прав та інтересів неповнолітніх, які перебувають у конфлікті із законом, є одним із пріоритетних завдань функціонування системи кримінальної юстиції, але позбавлення волі продовжує залишатися найпоширенішим заходом покарання щодо дітей. Метою представленого у статті дослідження є визначення специфіки виведення (відволікання) дітей від кримінального правосуддя та розгляд особливостей цього правового інституту в системі юстиції Киргизької Республіки. Під час дослідження було використано загальнонаукові та спеціально-правові методи, включно з логіко-семантичним, діалектичним, абстрактно-логічним, системно-функціональним, історичним, системно-структурним, порівняльно-правовим, інформаційно-правовим. Дослідження включало розгляд поняття виведення (відволікання) дітей від кримінального правосуддя, його відмінності від подібних інститутів (пробації). Було визначено чинники, що зумовлюють необхідність якомога швидшого виведення (відволікання) дитини від кримінального правосуддя, зумовлені її віковими психофізіологічними особливостями. Розглянуто міжнародні стандарти у сфері захисту дітей, зокрема ті, що стосуються практики виведення дітей із системи кримінального правосуддя. Визначено та проаналізовано основні аспекти імплементації міжнародного права щодо виведення дітей з-під варти в правовому полі Киргизстану, а також розглянуто відповідні положення національного законодавства. Спираючись на досвід таких країн, як Польща та Грузія, які успішно впровадили цей правовий механізм, визначено напрямки для потенційного вдосконалення нормативно-правової бази. До них відносяться визначення характеристик процесу перенаправлення, таких як застосовні етапи, відповідні правопорушення та вікові критерії для правопорушників, а також інтеграція медіації поряд із практикою перенаправлення. На основі результатів дослідження було запропоновано зміни до національного законодавства Киргизстану, що можуть бути використані в процесі законопроєктної роботи у сфері вдосконалення національного законодавства щодо ювенальної юстиції та юстиції для дітей

Ключові слова: підліткова злочинність; пробація; профілактика злочинів; ювенальна юстиція; права дітей; заходи виховного характеру; юстиція для дітей

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Artificial intelligence in crime counteraction: From legal regulation to implementation

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Abstract. The research relevance is determined by artificial intelligence (AI) as one of the ways to guarantee public safety and increase the effectiveness of law enforcement agencies. The study aims to investigate whether AI can be used in the legal system, with a particular focus on forensics and crime fighting. To achieve the research goal, the following methods were used: comparative legal, formal legal, historical legal, systemic and structural, and theoretical and prognostic. The article examines the use of AI in the legal sector from different perspectives and identifies "high-risk" AI systems. These systems should be used with caution and following specific criteria to ensure their safe and ethical use. In the context of criminal justice, it also examines how conventional digital technologies are connected to sophisticated AI capabilities, with a particular focus on the use of AI in the investigation of war crimes committed by Russia against Ukraine. While it is recognised that these materials must comply with applicable legal norms, AI is being used with great attention to collect and analyse data relevant to war crimes investigations. The results of the study show that although the use of AI in law enforcement operations can significantly increase the effectiveness of investigations, strict rules are still necessary to protect human rights and freedoms. It highlights how important AI is for war crimes investigations, especially considering Russian full-scale invasion of Ukraine. While it is recognised that these materials must comply with applicable legal norms, AI is being used with great attention to collect and analyse

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data relevant to war crimes investigations. The results of the study show that although the use of AI in law enforcement operations can significantly increase the effectiveness of investigations, strict rules are still necessary to protect human rights and freedoms. It emphasises how important AI is for war crimes investigations, especially considering Russian full-scale invasion of Ukraine

Keywords: information (digital) technologies; information and telecommunication system; war crimes investigation; forensic examination; forensic sciences

Introduction

The current state of crime fighting is associated with the need to use the latest forensic technology (optical imaging systems, 3D scanners, drones, quadcopters, multicopters), mobile DNA laboratories), artificial intelligence (AI) skills and digital technologies. The informatisation of society and the use of innovative technologies are increasingly exacerbating the problem of AI. The high rate of increase in the flow of information significantly affects people's daily lives, causing them to become disoriented and make suboptimal decisions due to lack of time.

L.I. Zhyvtsova (2023) argue that 90% of the world's data has been obtained in the last few years. Over the past three decades, the amount of data in the world has grown approximately tenfold every two years. Daily lives are heavily influenced by the rapid spread of information, which can lead to confusion and poor decision-making due to time constraints. In other words, it is useless to handle huge amounts of data while ignoring redundant information. As a result, information systems are needed that process data using advanced computer technology that can mimic human cognitive processes and be used to create and process various computer programs. AI technology will one day allow these intelligent robots to replace and organise human activities.

Zh. Udovenko and N. Rudenko (2023) investigated the advantages and disadvantages of introducing AI into the legal system of Ukraine and concluded that law enforcement agencies should use AI capabilities in their operations, as it is a legitimate necessity, especially when it comes to crime prevention. The detection, prevention and response capabilities of law enforcement software far exceed those of law enforcement officers. Law enforcement agencies across the country are now actively using AI technology in the following areas. The use of integrated AI systems in criminal investigations also helps to strengthen crime prevention strategies by facilitating more effective cooperation between law enforcement and other agencies. AI analytics tools can quickly respond to new criminal trends and modify your countermeasures to better suit the ever-changing criminal environment.

A study by O.I. Bugera (2021) shows that AI is increasingly being used by law enforcement organisations around the world to prevent crime in general. The inadequacy of the legal framework, incomplete regulatory mechanism, and lack of adequate scientific research all contribute to the effectiveness of this process. AI is a system of structured information technologies that handles complex tasks using a system of data processing algorithms and research methodologies that have been taken from other sources or created independently at work. AI can also be used to create and implement knowledge bases, decision-making models, data processing, and problem-solving algorithms. One of the most popular applications of AI for crime prevention is the installation of so-called intelligent security systems, which are equipped with various devices (sensors) for data collection, including high-definition video cameras.

AI components and technologies, as noted by K.O. Cherevko (2023), are already used by active Ukrainian law enforcement agencies. This is the process of localising and eliminating cyber threats, cyber terrorism and cyber radicalisation. This involves timely detection and prevention of attacks on protected objects, as well as automatic detection of viruses and malware, which significantly reduces the likelihood of adverse consequences in each area. The future of cybersecurity automation looks very promising. It will provide future researchers with the ability to respond more quickly to new threats and work more agilely with larger data sets, enabling them to accurately and quickly classify criminal offences under the auspices of cybercrime. According to T.A. Shevchuk and Y.V. Svystun (2021), law enforcement agencies should use robotic intelligence capabilities in their work, as it is practical and necessary, in the fight against crime. Compared to humans, law enforcement software is much more adept at detecting, stopping and responding to crimes at early stages. Domestic law enforcement agencies are now actively using AI technologies in a variety of areas.

Given the above, the study aims to thoroughly investigate and analyse the potential of integrating AI into the legal system of Ukraine to increase the efficiency of law enforcement agencies, reduce crime and explore potential applications of AI in judicial proceedings.

Materials and methods

Sophisticated methods were used, combining general and special research methods. The dialectical method was used to identify the relationship between the development of AI technologies and their impact on law enforcement. The comparative legal approach made it possible to study and compare several legal frameworks related to the use and administration of AI. As a result, important patterns and difficulties related to the use of AI in several areas of international law enforcement were identified. The application of the formal legal method helped in a thorough study of existing legislation to identify legal restrictions on the use of AI. It is now possible to trace the evolution of legal principles of AI use and understand how historical background and events have shaped current legislation using legal-historical techniques. With the help of theoretical, prognostic and systemic research, the author clarifies the function and functions of AI in crime prevention, as well as the goals and directions of its use to improve the efficiency of law enforcement agencies and ensure the rights and freedoms of citizens. structural research approach. The study offers a complete picture of the prospects of using AI in the investigation of war crimes, as well as the opportunities and challenges associated with its implementation in law enforcement agencies. This was made possible by the broad methodological approach of the study.

The following international regulatory sources were highlighted in the study of this topic: European Parliament Resolution "On Artificial Intelligence: Issues of Interpretation

and Application of International Law Insofar as the EU is Affected in the Areas of Civil and Military Uses and of State Authority Outside the Scope of Criminal Justice" (2021), European Parliament Resolution "On Artificial Intelligence in Criminal Law and its Use by the Police and Judicial Authorities in Criminal Matters" (2021), European Parliament Resolution "On a Comprehensive European Industrial Policy on Artificial Intelligence and Robotics" (2019). The following documents were additionally analysed: On 21 April 2021, the European Parliament and the Council proposed a regulation that would amend several Union laws and create standardised AI rules, known as the "Proposal for a Regulation of the European Parliament and of the Council Laying down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts" (2021) and on 25 April 2018, the Commission sent a communication entitled Artificial intelligence for Europe (2018) to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions. Ukrainian regulatory sources were given special attention, namely: the draft of the new Criminal Code of Ukraine (2023) was studied, the Instruction on the appointment and conduct of forensic examinations and expert studies, as well as scientific and methodological recommendations on the preparation and appointment of forensic examinations and expert studies, approved by Decree of the Ministry of Justice of Ukraine No. 53/5 "On the Approval of the Instruction on the Appointment and Conduct of Forensic Examinations and Expert Research and Scientific-Methodological Recommendations on the Preparation and Appointment of Forensic Examinations and Expert Research" (1998) and Order of the Cabinet of Ministers of Ukraine No. 1556-r "On the Approval of the Concept of the Development of Artificial Intelligence in Ukraine" (2021). These sources have become important sources of information for analysing and studying issues related to the use of artificial intelligence in the fight against crime, from legal regulation to its practical implementation.

Results and discussion

Legal requirements governing the use of AI and future opportunities for its use in crime combat. Among the areas of implementation of innovations by pre-trial investigation agencies are: 1) development and use of technical and scientific methods of search, collection and evaluation of evidence; 2) supply of advanced information technologies and their use by investigators and criminalists (detectives and investigators); 3) creation (development) and proposal of new methods, tactics and protocols for conducting searches and investigating general crimes.

The creation of electronic criminal cases (proceedings), remote (online) conduct of procedural actions, remote pre-trial investigation and court services are just some examples of how the latest information technologies are currently being used. An important result of the development of information technology in Ukraine is the creation of an information and communication network for pre-trial investigation. Part 1 of Article 106-1 of the Criminal Procedure Code of Ukraine (2012) provides that this network ensures the creation, collection, storage, search, processing and transmission of materials and information (data) in criminal proceedings.

Various unified registers can be used during the investigation (e.g., registration of expert and technical means, register of individuals – public formations and entrepreneurs, register of court decisions, etc.) The web portal and mobile application "Diia" have gained recognition as a brand that shapes the perception of Ukraine as a digital state, or "state in a smartphone" (Zhyvtsova, 2023). AI must be used by law enforcement agencies to fight crime. The ability of a mechanical system to accept, process and apply the knowledge and abilities it has acquired is known as AI (Makhnenko, 2021). AI-based face, speech, text, and video recognition systems are already highly developed and widely used around the world (Radutniy, 2017).

Due to evolving economic and social dynamics, as well as current military and cyber threats, AI is beginning to play an increasingly important role in practice. For this reason, forensic and legal AI research is becoming increasingly important. As noted by G. Vermeulen *et al.* (2022), the use of such systems in law enforcement raises criminological, ethical, legal and technological issues, such as increased surveillance and control to prevent crime and the possibility of bias or influence in selection (including automated selection).

As for the use of AI systems and their components against Ukraine for military reasons and in cyberspace, this is one of the most pressing challenges in a country that was the subject of a significant military attack by Russia in 2022. The formation of criminal law policy in the field of AI was influenced by the reports of the Ukrainian National Group of the International Association of Penal Law (IAPL) (Shepitko *et al.*, 2022; Karchevskyi & Radutniy, 2023). This will be reflected in the resolution of the IAPL Congress in Paris in 2024.

Changes in the definition of AI, expanding the boundaries of its real-world application, challenge the legal system to regulate these relations, addressing the issues of punishment of operators of AI-based systems, factories and suppliers that produce them, as well as states that direct them for military, criminal or manipulative purposes. The issue of whether AI can be a tool to assist criminal justice organisations should also be considered (Kaplina *et al.*, 2023).

Order of the Cabinet of Ministers of Ukraine No. 1556-r "On the Approval of the Concept of the Development of Artificial Intelligence in Ukraine" (2020) defines the idea of developing artificial intelligence in the country, which also refers to the possibility of performing complex tasks using a system of information processing algorithms and scientific research methods. It also mentions that AI can independently create knowledge bases, information, decision-making models, etc. The European Commission has defined AI in the following way, taking into account the expanding use of the technology in the EU: "human-made systems that... operate in the digital or physical world by absorbing information from the environment, analysing the collected structured or unstructured data, drawing conclusions based on the information obtained from this data, and choosing the most appropriate course of action (according to predefined guidelines) to achieve a specific goal" (Artificial intelligence for Europe, 2018).

The European Parliament adopted the European Parliament Resolution "On a Comprehensive European industrial Policy on Artificial Intelligence and Robotics" (2019). This resolution states that companies using and developing AI should consider the possible social, environmental and health effects that AI algorithms and robots may have on current and future generations. The European Parliament's plan clearly states that rules on AI should be implemented

shortly, and that Europe is urged to use it responsibly. It is worth noting that, given the European growth path, European authorities are putting a lot of effort into regulating AI. This law will soon be in force in Ukraine as well.

For example, the European Commission's work on AI is embodied in Artificial Intelligence for Europe (2018). S. Voronova (2021) highlights the specific legislative procedures of the EU in the field of AI regulation: "...the Council has set the goal that "subject to clear safeguards" law enforcement agencies should be able to integrate AI technologies into their daily activities by 2025. Concerning AI in the justice system, the Council affirms that human decision-making is essential and stresses the need for robust legal safeguards to protect the rights to counsel, presumption of innocence and fair trial".

The Automated Intelligence Act, a new law adopted by the European Parliament and Council that harmonises AI rules and changes certain connectivity rules, has amended the laws governing this area. Thus, Title II of the AI Law (Art. 5) prohibits the following: using AI to significantly alter human behaviour (physical or psychological harm) employing methods that are subconscious and outside of human consciousness; using AI to alter behaviour (physical or psychological harm) by exploiting the age or physical or mental disability of vulnerable groups of people; using AI to help authorities assess or classify people based on their known or social behaviour; and using Ai-based remote biometric identification systems.

Further, Art. 6 of the mentioned AI Act references "high-risk" AI systems that have a negative impact on human security or fundamental rights. The AI systems mentioned in Annex III will also be considered high-risk in the following areas: biometric classification and identification; migration management, protection against persecution and border control; control and operation of vital facilities; vocational and higher education; employment opportunities, employee management and freelance work; availability and use of public and private benefits and services; security forces; administration of justice and democratic systems.

AI applications and use are becoming more and more controlled in the European Union, to the point where they are either completely banned or subject to severe restrictions, especially in the criminal justice system. The process of drafting the legislation itself and the subsequent actions taken to enforce it is clear. Note that the European position primarily concerns the personal responsibility of AI developers and their employers. For this reason, the interesting views of some scholars on the potential of defining AI as a crime have not yet been confirmed by the trends in regulating AI and determining liability for its use in certain sectors (Radutniy, 2017).

Concerning the use of AI in wartime, the European Parliament has stressed that "the last word in decision-making should always be with the human being" and "Individuals, disputants and Member States should be held accountable for actions resulting from the use of these systems". AI in the justice system and its unlawful use by law enforcement and judicial authorities is addressed in a 2020 European Parliament resolution, which points to serious concerns about the very possibility of using or misusing AI systems due to fears of automated discrimination on various grounds and bias; the need to ensure that decisions in law enforcement and judicial authorities are made only by a person capable of taking responsibility; a call for a ban on permanent analysis and recognition in public places based on certain features; a proposal to ban private facial recognition databases (emulating Clearview AI); and a freeze on law enforcement agencies using facial recognition technology, except for victims.

Reviewing the legal frameworks and perspectives on the introduction, use and accountability of AI, the following trends can be seen: 1) Criminal justice organisations are completely prohibited from deploying AI; 2) Individuals, groups and states whose interests are served by the use of AI are held accountable for the use of AI and any potentially harmful consequences, including criminal liability. 3) The rights, duties and responsibilities of participants in the use of AI within the European Union are established.

The implementation of AI regulations in Ukraine is still at an early stage. The concept of AI development in Ukraine was approved by the Cabinet of Ministers of Ukraine (Order of the Cabinet of Ministers of Ukraine No. 1556-r…, 2021). The meaning of AI differs from the definition of the term in the EU. The concept of AI is that it is a set of organised information technologies that allow the use of an algorithmic system and scientific research methods to process data that is either independently generated during the execution of tasks or obtained from external sources. Systems that exhibit intelligent behaviour, such as AI systems, analyse their environment and occasionally act independently to achieve predefined goals. In addition, AI can be used to develop and use its knowledge bases, data processing algorithms and decision-making models to solve problems. The European Union describes AI as a broad class of software systems that can operate in cyberspace, such as voice assistants, search engines, image analysis software, smart automation, unmanned aerial vehicles, drones, and applications. The concept lists issues in the areas of research, education and training, public administration, defence, cybersecurity, information security and justice that AI can help address. However, it does not provide any recommendations for oversight of the areas in which AI can be applied. However, the concept does not address the difficulties associated with restrictions and outright bans on the use of AI in Ukraine, as well as concerns about liability and potential harm that AI systems can cause.

According to the Concept for the Development of AI in Ukraine, the justice sector should fulfil such tasks as building information systems and registers, implementing AI-based legal advice, preventing socially dangerous phenomena, developing a plan for the re-socialisation of prisoners, and making court decisions in cases of low complexity (Order of the Cabinet of Ministers of Ukraine No. 1556-r…, 2021). An analysis of the responsibilities established in one area of justice shows that there is no consensus between the EU and Ukraine on AI regulation. While the EU emphasises individual decision-making rather than the area of justice, it is argued that court decisions are made in cases of "minor complexity" in Ukraine. In comparison, while the development of modern technology in the Ukrainian judicial system may contain certain elements of AI, it is not AI. However, law enforcement agencies, criminal justice systems and forensic companies often underestimate the difficulties of using AI to collect and evaluate data on human traits. Therefore, the integration of EU and Ukrainian legislation is vital and promising to protect human rights, end discrimination on any grounds, and bring Ukraine closer to European standards.

Criminal liability for the use of AI (provided that its use is prohibited) and potentially harmful consequences also

seem promising. The General and Special Parts of the current or amended Criminal Code of Ukraine should address this issue by providing for criminal liability of those who developed the AI system, whether individuals or legal entities. It makes sense to introduce criminal liability for violating the ban on the use of AI in certain areas, which has dire consequences.

Use of digital technologies and AI in criminal cases. AI, along with other digital technologies, is becoming increasingly important for the pre-trial investigation process. However, due to the lack of appropriate legal control over the possibilities of applying and further processing the results of using AI in criminal proceedings, the current criminal procedure legislation was not ready for such a digital revolution in criminal proceedings. Such a situation is critical, especially in martial law, when access to the scene of an incident is limited/absent due to active hostilities and/or occupation. Moreover, failure to comply with the criminal procedure form may result in the inadmissibility of such evidence in court, which is particularly dangerous if such digital evidence is submitted to international institutions (e.g., the International Criminal Court, where the standard of proof is "beyond reasonable doubt"). This does not diminish the role of the developed strategic documents on AI in Ukraine/abroad, but the practice of investigating war crimes in Ukraine exposes these issues. For example, Order of the Cabinet of Ministers of Ukraine No. 1556 "On the Approval of the Concept of the Development of Artificial Intelligence in Ukraine" (2021) emphasises the need for further development of the technologies currently available in the field of justice. There are good reasons to conclude that there is an insufficient basis for the development and proper functioning of digital technologies in the justice sector in Ukraine, given that the focus is primarily on improving current technologies rather than introducing new ones, especially during the investigation process, and the existence of a general reference to the common principles and rules for their use developed and in force in the European Union (Regulation of the European Parliament…, 2021).

AI is used to analyse and consolidate a large amount of digital data, extract text from video and audio content, search by keywords, etc. For instance, when there are many interviews and/or interrogations, and it is not physically possible to listen to each of them, AI can be used for such purposes (Basysta *et al.*, 2024). It runs so fast that it can replace an entire human staff, while being efficient, analysing large amounts of information and categorising it according to a set filter (in the case of interviews with prisoners, it is possible to compile a conditional map or matrix of the location or concentration of prisoners on a certain date, track their movement and conditions of detention).

Moreover, AI can detect difficult aspects of objects that are relatively new to Ukrainian realities. This applies to the study of satellite images, the search for "conditional" places where the "human eye" is not always able to distinguish between different components and establish the necessary connections to find the necessary elements. AI, on the other hand, has advanced tools that allow it to quickly analyse satellite imagery, create a damage map and plot a course of fire. But it's also important to keep in mind that working with AI poses some significant obstacles.

Ensuring the privacy and security of the data processed and stored by AI algorithms is a serious challenge. This involves answering, among other things, the following questions: which servers store the data that the AI receives for analysis, categorisation, grouping and processing; who has access to this data and who is the legal owner of all stored data; whether the AI user is entitled to transfer this data to third parties and, if so, under what circumstances; how long this data may be stored on the relevant servers; and for what purpose.

There is also the issue of the ability and legitimacy of using AI to search for information in closed profiles and other sources that are not open, or when data collected by a particular company has been sold/stolen and unauthorisedly "leaked" to the network. The data in the public domain were voluntarily placed by their owners, who by their conclusive actions gave their consent to such placement and further review by an unlimited number of persons. As a rule, in such situations, a person understands that personal data becomes public and can be copied or otherwise used by third parties, even if the profile is restricted to a certain group of users.

When personal information, for example, has been collected from a certain audience and then "leaked" to the network without the consent of the data rights holders, it is a different issue altogether, and AI has discovered this information. The legality of using such data in criminal proceedings and whether the "fruit of the poisonous tree" theory will be applied in court then naturally becomes a matter of debate. In extraordinary circumstances, investigators may use such materials only as a guide when creating investigative versions and choosing a strategy for conducting certain investigative (search) actions; however, it should never serve as a basis for prosecution. It is necessary to "avoid treating open-source information as a panacea" or "as a substitute" for traditional evidence (Murray *et al.*, 2022).

This aspect of AI is particularly important, also given that Europol has created a new task force to facilitate ongoing investigations of major international crimes committed in Ukraine since February 2022, using open-source intelligence (OSINT) analysis. Fourteen countries have joined the group – Belgium, France, Germany, Ireland, Italy, Lithuania, the Netherlands, Norway, Portugal, Spain, the Slovak Republic, Slovenia, the United Kingdom, the United States of America and the United States of America. The above-mentioned Task Force is led by the German Federal Criminal Police Office (Bundeskriminalamt) and the International Crime Unit of the Dutch National Policy Office, with the support of Europol and its analysis initiative "Major International Crime" (Europol sets up OSINT taskforce..., 2023). The results of such studies can also be used in the future to create "detailed digital platforms" that help prosecutors, defence, judges, victims and the public better understand how each piece of visual evidence fits into, for example, a geographical space (Koenig *et al.*, 2021). This is particularly important because, according to B. Holovkin *et al.* (2023), cybercrime has become a powerful tool of geopolitical warfare, a weapon of cyber aggression, and a serious threat to both regional and global security. It is only natural that, as a result, most of the evidence will be digital.

It is also necessary to consider the "downside" of using AI to create false content or develop scripts for "hacking" or other unauthorised access to personal data. This refers to situations where additional elements created and added by AI are added to the original content or vice versa. In other words, AI can be successfully used to create high-quality fakes and deepfakes that will be difficult to detect, and if the

relevant forensic examinations are carried out, the goal for which they were developed will be achieved, as such digital products are instantly imprinted in human memory and can have a significant impact on the population. Quite often, this AI technology is used to propagate a desired narrative to the masses. An example of this is when the artificially created, deep fake-generated mayor of Kyiv spoke with the leaders of five European capitals and the only doubts these leaders had been about the questions he asked and the use of Russian, but not about his appearance, facial expressions, gestures, etc. Thus, there is a high risk of widespread dissemination of blatantly false information, the consequences of which will be very difficult to overcome and correct. Such cases discredit AI and other digital technologies. An important issue and challenge are the procedural processing of data obtained with the help of AI, as such materials may be subject to review in courts in the future. At present, the viewpoint that preference is given to the recording of actions using AI technologies is mostly supported. However, the issue of using these technologies as a tool and further such recording remains open.

Thus, the pre-trial investigation process is increasingly dependent on AI and other digital technologies. Unfortunately, the options for using AI in criminal proceedings and further processing the results are not regulated by the current criminal procedure rules. AI is used for keyword searches, text extraction from video and audio content, satellite photo evaluation, and analysis of a wide range of digital data. However, the possibility and legality of using AI for information retrieval is a matter of debate.

AI employment in prosecuting war criminals. Technologies used in the investigation of war crimes should be given special attention when investigating the possible use of such systems in criminal investigations (Dakalbab *et al.*, 2022). One such system is the AI face recognition system created by the American startup Clearview AI. The advantages of this technology are:

1) provide extremely accurate facial recognition for all populations. Indeed, Clearview AI's face recognition algorithm is designed to take into account various visual conditions, changes in facial hair, age-related development, and changes in posture and pose;

2) with more than 40 billion face photos from publicly available online sources such as social networks, photo sites, media, and more, Clearview AI's face recognition system functions as a search engine

3) use of industry-standard testing conducted by impartial third parties for routine verification and testing of the system. Clearview AI used a mechanism established by a separate US academic institution to verify and validate its system to ensure that it met the stated 99% accuracy threshold;

4) implementing security measures to reduce the likelihood of unwanted access or use through a secure cloud platform containing more than 40 billion facial photos. All data is stored in real-time on servers in a secure data centre with strict internal access controls;

5) reducing false positives, as Clearview's AI system is hard-coded, it does not purposefully track matches or compare percentages with results. If the search accuracy is less than 99%, the Clearview AI system does not offer results, reducing the likelihood that a client will use the technology to identify the wrong person;

6) ensuring that people are held accountable. With each use of Clearview AI, a separate report can be generated that can be used, which contains all the data a consumer needs to identify themselves. Search history, search reason, and user identification are stored in the report (Shukla *et al.*, 2020; Wang *et al.*, 2020).

AI-based face recognition technology developed by the US company Clearview AI has been used in Ukraine since March 2022 (Zachek *et al.*, 2023). The full-scale Russian invasion of Ukraine was the main factor that affected the country's ability to use this technology. The Ministry of Defence of Ukraine was the first organisation to use the technology, but it was later joined by several other organisations, including the National Police of Ukraine. Today, 18 government ministries and institutions in Ukraine use facial recognition technology.

The following results were made possible by verifying and studying the application of a specific AI-based facial recognition technology during the full-scale Russian invasion of Ukraine. Between March 2022 and November 2023, nearly 230,000 Russian military and officials involved in the full-scale invasion were identified using facial recognition technology created by the American corporation Clearview AI (Bergengruen, 2023). Around 100 users of the State Border Guard Service used this face recognition technology between March 2022 and April 2023, which allowed them to identify more than 10,000 people. Among them are 50 people involved in the forced removal of children from the temporarily occupied territories of Ukraine and their transfer to Russia, Russian military personnel and members of illegal armed groups, and Russian propagandists who provide material support to the occupation forces and participate in information activities. war against Ukraine, collaborators and traitors to Ukraine, people involved in criminal and administrative offences, as well as Ukrainian citizens detained during this period. Using this methodology, the Prosecutor General's Office was able to locate 198 missing Ukrainian children, many of whom had been adopted by Russian families or transported to "re-education" camps after being forcibly removed from orphanages and temporary shelters. Furthermore, it could be verified that each of them is on Russian territory or in areas that Russia has seized. The Prosecutor's Office of the Autonomous Republic of Crimea has identified 70 members of the illegal military formation "Self-Defence of Crimea". In addition to their involvement in several crimes during the month of using the system, they helped the Russian armed forces occupy Crimea. The facial recognition system capabilities helped locate 150 teenagers and orphans who were on the peninsula in 2014 and were to be deported to Russia (Clearview AI CEO..., 2023). As of November 2023, facial recognition technology has identified the faces of 71,000 dead Russian soldiers. The Ministry of Internal Affairs of Ukraine announced on Poter.net in response to Russian propaganda that its forces are not losing ground. In addition, it has been demonstrated that the Clearview AI facial recognition system can accurately identify the deceased even in situations where the subject's face is deformed (Harwell, 2022). Resolving cases in situations where people are unable to provide information about themselves for objective or subjective reasons. For example, a face recognition system was used to identify a person who was in a Ukrainian hospital and claimed to be a Ukrainian soldier who had suffered shell shock and could not remember anything except that he was Ukrainian. However, using an AI-based facial recognition system, it was determined in a matter of minutes that the person was a Russian soldier.

For example, the American development Clearview AI helped in the process of AI-based face recognition, which allows identifying: the deceased; persons who, for objective or subjective reasons, cannot provide information about themselves; Russian military personnel, representatives and members of illegal armed groups; people involved in joint activities; captured Ukrainian citizens; children from Ukraine who were deported to Russia and the temporarily occupied territories; individuals involved in the removal of children from the territory of Ukraine; and Ukrainian investors who continued to do business with Russian companies after the full-scale invasion of Ukraine.

Using AI in forensic sciences. The use of digital data, including images, video and audio recordings, in court cases is expected to increase significantly by 2024. This data is captured by CCTV cameras, smartphone and tablet cameras, and a significant amount of such information is available on the Internet, social media, cloud storage, etc. Such data becomes an integral part of the evidence base, providing the possibility of establishing important information (AL-Marghilani, 2022). These materials can be the subject of forensic portrait research, linguistic analysis of speech, photographic examination, video and audio recordings, etc. depending on the problems to be solved. Modern scientific and technological advances have also improved the technique and methodology of data investigation, giving forensic scientists access to perspectives that were previously considered available only in science fiction (Ushenko *et al.*, 2023).

For example, if it is necessary to identify a person by their appearance from images captured on various media (digital images, video, various reproductions, photographs), a portrait forensic examination is ordered. This is important for establishing the identity of an unknown offender, suspect or victim, the facts of documents belonging to a certain person, etc. The laws of human physiological structure, changes in these signals during life and after death, and the use of these indicators in the investigation of criminal offences are the topics of portrait forensic examination. During the forensic portrait assessment, the following questions will be considered: whether the image shows the subject of the photographs sent as an example; whether the image shows one person or several (video); if the photograph of the deceased matches the persons whose photographs were provided as an example (Decree of the Ministry of Justice of Ukraine No. 53/5..., 1998). During the portrait forensic examination, the forensic expert analyses the characteristic features of the face in the images: the shape of the head, eyes, nose, mouth, the distance between the corresponding elements, as well as other individual features of the appearance (moles, scars, etc.). The comparison is made by further comparing, superimposing and linearly combining the relevant features using computer software. However, portrait examinations often involve the use of a face captured by a CCTV camera, for example, during the commission of various crimes, or materials from social media. In these cases, the forensic expert has to deal with grainy, low-quality photos (videos) or images taken from different angles. AI capabilities have recently been presented to optimise the relevant research (Capuano *et al.*, 2022).

In the case of the shooting of a Ukrainian serviceman by the Russian military, a portrait examination conducted by the Kyiv Scientific Research Institute of Forensic Expertise (KSRIFE) identified the deceased Hero of Ukraine Oleksandr Matsievskyi. This was the first time AI was used in such research in Ukraine. The forensic experts were asked to make a verdict on the identification of the fallen Ukrainian soldier on the video. KSRIFE specialists were sent a video of the incident; it was posted online on 6 March 2023. In addition, comparative samples were sent, which are images of people who, in the opinion of law enforcement agencies, could be in the video. The problem was the low quality of the video material under investigation and the foggy photographs that the forensic experts pointed out. KSRIFE experts have verified that the Ukrainian soldier in the video is a sniper from the 163rd Bat. 119th Brigade. TRO of Chernihiv region, O. Matsievskyi (In identifying the body of the deceased Matsiyevsky..., 2023). As a result, the use of AI has shown how to progressively use modern technologies to realise personal identity.

Experience of the National Scientific Centre “Non. Prof. M.S. Bokarius Forensic Science Institute” with Skeleton ID software (craniofacial overlay, face comparison, biological profiling and comparative radiography) is another illustration of the use of modern technologies for personal identification. A person can now be identified in seconds (previously it took hours or even days) thanks to Skeleton ID, a patented technique that scans multiple skulls, bones and faces simultaneously. The software can be used to compare unidentified remains in mass graves or to search for missing persons in databases. The tandem 3D scanner of the National Scientific Centre “Non. Prof. M. S. Bokarius Forensic Science Institute” Artec Leo 3D scanner and Skeleton ID software will be used in the future to solve highly complex expert research projects (Kliuiev, 2023). In addition, Skeleton ID forensic identification software is actively used by authorities around the world when it is not possible to identify a person by DNA or fingerprints. The use of Skeleton ID software demonstrates the successful application of modern technologies in the field of forensic examination and law enforcement, demonstrating the speed, efficiency and increased opportunities for personal identification.

AI is also actively used in other types of forensic investigations. Unlike portrait and forensic examinations, photographic examination, for example, considers both photo and video materials. It is recommended in cases where it is necessary to store information about an image in an incomprehensible format, for example, when it is necessary to find out how large the objects in the image are, where the cars are located concerning the edges of the road where the image was taken, or how to recreate the material circumstances of the scene from drawings. Often, a photographic technical examination is ordered to detect signs of editing in the images, identify objects in the images, establish the actual size of the objects depicted in the image, as well as information signs (e.g., vehicle licence plate) contained in the image (Chornyi *et al.*, 2022). Such comparative studies are carried out using image quality assessment methods (local focus quality methods, noise characterisation methods, Discrete Cosine Transform (DCT) analysis methods, and image entropy analysis methods). In addition, AI technologies are also being introduced in photographic examinations. In addition to the image enhancement technologies already mentioned, for example, the Unet artificial neural network model (with the EfficientNetB4 feature classifier) is used, which has proven to be effective in detecting signs of photo image editing. As a result, AI can identify specific changes made to an image during editing, as well as improve image

quality and clarity. AI is not a universal tool for identifying every change that can occur in images or films (Rawat *et al.*, 2023). The algorithms used to detect these deviations and the calibre of fake content determine how effective it is.

Thus, AI in the judiciary is a relevant topic that has both advantages and disadvantages. AI tools can significantly speed up the judicial process by analysing court decisions and facilitating quick access to information. But using AI means paying attention to moral issues and ensuring that accountability, transparency and citizens' rights are protected. In addition to conducting expert assessments and training for judges, creating legal regulations that set standards for the use of AI in the judiciary, as well as researching and improving AI-related methods and technologies, are also important. In addition, it is crucial to proactively prevent and manage the risks associated with the use of AI, such as the protection of cybersecurity, privacy and personal data.

Conclusions

The issue of adding AI components to the fight against crime and its tools in criminal proceedings is becoming increasingly problematic in the current environment due to the use of information (digital) technologies. The study of laws regulating the use of AI demonstrates the significant impact of technology on a range of human efforts and the need for proper control, including the establishment of prohibited behaviour.

At the moment, the views on the potential use and regulation of AI in the EU and Ukraine differ. The definition of AI in the concept differs from the definition of the same term in the EU. The European Union is moving towards regulating the use of AI and defining the rights, duties, and responsibilities of participants in this space. It is worth noting that in light of the European growth direction, the European authorities are putting a lot of effort into regulating AI. This law will soon be implemented in Ukraine. The very prospect of using or abusing AI systems, as well as the detrimental impact on human security or fundamental rights, are major concerns in Europe. The process of bringing Ukrainian and EU legislation in line with European norms, ensuring human rights, and prohibiting discrimination on any grounds is ongoing. It also holds promise for regulating criminal liability for the use of AI (provided that its use is prohibited) and the potentially dangerous consequences it may cause. These issues should be addressed in the current or updated Criminal Code of Ukraine by establishing criminal liability for individuals and legal entities that develop AI systems.

The pre-trial investigation process is increasingly relying on AI and other digital technologies. describes the use of AI in open-source intelligence (OSINT) analysis and open-source information retrieval. Unfortunately, the regulation of the use of AI in criminal proceedings and the subsequent processing of findings is not covered by the current instructions on criminal procedure. When studying the potential use of AI in criminal proceedings, special attention should be paid to technologies used in the investigation of war crimes. The use of AI-based facial recognition technology, created by the US business Clearview AI, allows for the necessary processes. AI is a topic of great interest in the court, and it has both advantages and disadvantages. AI techniques that analyse court decisions and accelerate access to information can significantly speed up the judicial process. The Skeleton ID programme works well in forensic identification investigations. However, the use of AI requires consideration of ethical issues and ensuring transparency, accountability, and respect for the rights of citizens.

Future research should address current forensic knowledge, as well as international experience and practice, and focus on the development and use of AI as a component of information technology in law enforcement and justice.

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Conflict of interest

None.

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Штучний інтелект в протидії злочинності: від правового регулювання до реалій застосування

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Анотація. Вивчення теми має важливе значення, позаяк штучний інтелект (ШІ) є одним із способів гарантувати громадську безпеку та підвищити ефективність правоохоронних органів. Кінцева мета дослідницької діяльності полягає в тому, щоб дослідити, чи можна використовувати ШІ у правовій системі, з особливим акцентом на криміналістиці та боротьбі зі злочинністю. Для досягнення мети дослідження було використано наступні методи: порівняльно-правовий, формально-юридичний, історико-правовий, системно-структурний та теоретико-прогностичний. У статті розглядається використання ШІ в юридичному секторі з різних точок зору та визначаються системи ШІ "високого ризику". Ці системи необхідно використовувати надзвичайно обережно та відповідно до конкретних критеріїв, щоб забезпечити їх безпечне та етичне використання. У контексті кримінального правосуддя також розглядається, як звичайні цифрові технології підключаються до складних можливостей ШІ. Особливу увагу приділено застосуванню ШІ в розслідуванні військових злочинів, скоєних Росією проти України. Хоча визнається, що ці матеріали мають відповідати чинним правовим нормам, ШІ використовується з великою увагою для збору та аналізу даних, важливих для розслідування військових злочинів. Результати дослідження свідчать про те, що, хоча застосування ШІ в правоохоронних операціях може значно підвищити ефективність розслідувань, суворі правила все ще необхідні для захисту прав і свобод людей. Підкреслюється, наскільки важливий ШІ для розслідування військових злочинів, особливо в світлі повномасштабного вторгнення Росії в Україну. Хоча визнається, що ці матеріали мають відповідати чинним правовим нормам, ШІ використовується з великою увагою для збору та аналізу даних, важливих для розслідування військових злочинів. Результати дослідження свідчать про те, що, хоча застосування ШІ в правоохоронних операціях може значно підвищити ефективність розслідувань, суворі правила все ще необхідні для захисту прав і свобод людей. Підкреслюється, наскільки важливий ШІ для розслідування військових злочинів, особливо в світлі повномасштабного вторгнення Росії в Україну

Ключові слова: інформаційні (цифрові) технології; інформаційно-телекомунікаційна система; розслідування воєнних злочинів; судова експертиза; судові науки

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The use of video and audio recordings provided by victims of domestic violence as evidence

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Abstract. The relevance of the study lies in the urgent need to develop scientifically grounded and practically applicable criteria for the admissibility of using secret audio and video recordings made by victims in criminal proceedings regarding domestic violence. The purpose of the study is to establish whether the information contained in secret audio and video recordings made by victims can be used as evidence in criminal proceedings regarding domestic violence. The main research methods are systemic, analysis and synthesis, historical, heuristic, formal-legal methods. The issues of providing recordings by victims, witnesses, and other persons for criminal investigation purposes; general criteria for restricting the right to privacy in criminal proceedings regarding domestic violence; problems of evidence presentation by victims and applicants; issues of documenting domestic violence facts; the issue of admissibility of documentation are investigated. It is proved that aspects of the legality test for limiting the offender's right to privacy in cases of conducting criminal proceedings regarding domestic violence may involve inquiries concerning the importance of evidence gathered through covert recordings and the exclusivity of the necessity of such measures. It is argued that when considering the criterion of a secret operation, which is identified as a condition for recognising audio and video recordings as inadmissible evidence, it should be acknowledged that in criminal proceedings related to domestic violence, video and audio recordings provided by victims cannot meet this condition in the vast majority of cases. The practical value of the study lies in the possibility of unifying judicial practice in determining the admissibility of evidence contained in audio and video recordings made secretly by victims in criminal proceedings regarding domestic violence

Keywords: abusive behaviour; participants in criminal proceedings; pre-trial investigation; electronic evidence; admissibility of evidence; vulnerable victims

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Introduction

The issue of using video and audio recordings provided by victims in criminal proceedings related to domestic violence is problematic, given the general problematic approach to the use of video and audio recordings made by victims or witnesses. This problem arose due to the motivation of the Decision of the Constitutional Court of Ukraine (CCU) in the case upon the constitutional submission of the Security Service of Ukraine regarding the official interpretation of the provision of the third part of Article 62 of the Constitution of Ukraine, dated October 20, 2011 (Decision of the Constitutional Court of Ukraine No. 12-рп/2011, 2011). This decision interpreted that "accusations of committing" a crime cannot be founded on factual data acquired through operational search activities by an individual not authorised to do so, without adhering to constitutional provisions or in violation of the legally established procedure. This includes data obtained through purposeful actions for their collection and recording using methods outlined in the Law of Ukraine "On Operational Search Activity", by an unauthorised person. Furthermore, it was stated that "when evaluating the admissibility of evidence in a criminal case, which includes factual data containing information about the commission of a crime or preparation for it and submitted in accordance with the provisions of the second part of Article 66 of the Criminal Procedure Code, it is essential to consider the initiative or situational (accidental) nature of actions by individuals or legal entities, their purpose and intentionality in recording the specified data".

As of 2023, there is no stable understanding of what constitutes "purposeful actions" and what is meant by "initiative or situational (accidental) nature of actions" in this aspect. Therefore, considering this decision, there is an important practical problem regarding the admissibility of factual data contained in audio and video recordings. This issue is particularly relevant in criminal proceedings related to criminal offences associated with domestic violence, as due to the nature of the acts, they are latent and usually do not have witnesses who could confirm or refute information about the criminal offence and other elements of the subject of proof. The fact that witness testimony is rarely used in proving domestic violence is discussed in the publication by I. Hloviuk (2022).

The literature related to this study can be divided into several important groups. Firstly, there are studies on the criminal procedural aspects of domestic violence, particularly regarding evidence. S. Ablamskyi *et al.* (2023) conducted a study on re-evaluating views on preventing and combating domestic violence in light of the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and on the interpretation of domestic violence in various areas of Ukrainian legislation.

Secondly, studies based on scientific concepts of electronic (digital) evidence. M.V. Hutsaliuk *et al.* (2020) provided definitions and formulated recommendations for working with electronic evidence. A. Skrypnyk and I. Titko (2021) considered the constitutional and legal aspects of the use of digital information as evidence. O. Hura (2020) disclosed the issue of video evidence. D. Golovin *et al.* (2022) investigated the features of using electronic evidence in criminal proceedings regarding criminal offences related to the circulation of narcotic and psychotropic substances. Ye. Murzo & V. Halchenko (2023) considered the use of electronic evidence in the context of marauding investigations.

Thirdly, research on the victim as a subject of evidence in criminal proceedings is essential. I. Mudrak *et al.* (2019a) examined the victim's right to procedural communication during criminal proceedings in the context of its correlation with the victim's physiological and psychological state in the aspect of evidence collection. I. Rakipova *et al.* (2023) investigated the protection of victims' rights under the Criminal Procedure Code of Ukraine, particularly in the context of representation. I. Mudrak *et al.* (2019b) analysed issues related to compensating damage to the victim in accordance with the provisions of the Criminal Procedure Code of Ukraine. S. Ablamskyi *et al.* (2022) conducted a comparative legal analysis of the status of victims in Ukraine and India.

These studies undoubtedly form the theoretical basis of this study in the context of understanding the legal and social nature of domestic violence and the specificity of the status of victims. However, despite their importance, the use of video and audio recordings provided by victims of domestic violence in evidence was not considered in these and other studies. Nevertheless, it is important in the context of the digitalisation of all spheres of life, as victims are vulnerable and limited in their ability to present factual data on domestic violence.

The purpose of this study is to assess the possibility of using video and audio recordings provided by victims in evidence in criminal proceedings regarding offences related to domestic violence based on the provisions of the Criminal Procedure Code of Ukraine, considering the decision of the Constitutional Court of Ukraine dated October 20, 2011.

Materials and methods

A complex of scientific approaches and methods was used to achieve the purpose of the study. The fundamental approach of the study is the axiological approach, applied considering its specificity in law. The study is based on an understanding of values such as respect for human beings and zero tolerance for violence, including gender-based and domestic violence. These values are enshrined in the Istanbul Convention and current Ukrainian criminal and criminal procedural legislation and constitute the human-centric approach of state policy in this area. This approach, using the methods outlined below, allowed for the justification of the value of documenting instances of domestic violence by victims for effective counteraction to this dangerous phenomenon. The hermeneutic approach allowed proposing solutions to complex issues of the admissibility of recordings in the presence of the 2011 decision of the Constitutional Court in such a way as to reveal the implicit meanings of both the decision itself and the implicit meanings of documenting domestic violence (considering its latent nature and the vulnerability of victims). Accordingly, situations of domestic violence were identified as sui generis situations for the purposes of documentation, and the position of the Constitutional Court was interpreted considering this identification and the digitalisation of life. This approach also influenced the interpretation of the initiative in documentation.

The use of the historical method allowed for the investigation of the development of scientific concepts and the dynamics of legislative transformations in the sphere of using electronic evidence for criminal justice purposes. The

systemic method allowed establishing the correlation between scientific concepts, doctrines, and normative prescriptions related to the use of electronic evidence. This method also allowed considering the proof of domestic violence in the context of the general concept of criminal procedural evidence and, ultimately, formulating a conclusion regarding the conditions for the admissibility of using audio and video recordings provided by victims in criminal proceedings regarding domestic violence. The methods of analysis and synthesis allowed for an analysis of relevant norms of current legislation and judicial practice. Using these methods, an in-depth examination of certain aspects of the use of audio and video recordings in criminal proceedings was conducted, and the findings were extrapolated to issues related to domestic violence. These methods also allowed for the argumentation of the author's approach regarding the fact that signs of operational search activities cannot apply to situations of domestic violence. The application of heuristic assessments allowed for the analysis of the main scientific positions regarding the procedural status of victims, the documentation of domestic violence, the admissibility of using electronic evidence in criminal proceedings, and the assessment of the decisions of the Constitutional Court and other courts. The formal legal method clarified the content of legislative provisions and legal interpretation acts related to the use of electronic evidence in criminal proceedings and the status of victims in pre-trial investigations. All methods were applied in correlation, ensuring the reliability and relevance of the formulated conclusions.

The normative basis of the study includes the Criminal Procedure Code of Ukraine (2012), the Law of Ukraine No. 2135-XII "On Operative and Investigative Activities" (1992); the empirical basis includes decisions of the Constitutional Court of Ukraine, court decisions in criminal and administrative offence proceedings, decisions of the European Court of Human Rights. The study was conducted according to a methodological scheme, starting from general issues of providing recordings by victims, witnesses, and other persons for criminal proceedings in terms of the admissibility of evidence. Further, the regulatory regulation of the rights of victims and applicants to submit evidence in criminal proceedings, including audio and video recordings, was considered. As a logical continuation of the study, the documentation of domestic violence was revealed in terms of the vulnerability of victims and the admissibility of documentation.

Results and discussion

General issues of providing records by victims, witnesses, and other persons for criminal proceedings. Consideration of this issue should begin with general issues of domestic violence, which significantly influence how it is proven. Firstly, there is a variety of manifestations and consequences of domestic violence, which are of practical importance in combating it, as rightly emphasised by N. Volkova *et al.* (2023). Secondly, domestic violence, as expected, has common legal characteristics of violence, primarily its social danger (Stepanenko *et al.*, 2023). Accordingly, this affects the evidence-gathering process, as the victim is the most knowledgeable about the fact of domestic violence and its consequences. Indeed, the victim is essentially the first person who can provide information, including items and documents, to substantiate the facts and consequences of domestic violence.

Considering the subjects providing items and documents, as L.M. Hurtieva (2022) indicated, the voluntary provision of evidence (documents, items, etc.) by the prosecution should be considered as a separate method of evidence collection: voluntary provision of audio and video recordings can be discussed. In cases of voluntary provision of recordings, the relevant factual data are recognised in judicial practice as admissible or inadmissible. For example, when an audio recording of an offer and provision of money was provided, the Supreme Court (hereinafter – SC) recognised that "the said audio recording was conducted through purposeful actions using measures that have signs of search activities aimed at collecting and fixing evidence by a person not authorised to perform such activities. Furthermore, such actions are performed in violation of the procedure prescribed by the criminal procedural law and, most importantly, without judicial control, grossly violating human rights and fundamental freedoms. As can be seen from the criminal case materials, the mobile phone with the above-mentioned audio recording, which the witness herself copied onto a disk, was not seized. Information about which medium was used for this audio recording is absent from the case materials. The disk examination and the audio recording reproduction were done without witnesses. Therefore, the origin of the evidence is unknown. The phonotechnical examination was refused. Under such circumstances, the specified evidence cannot be considered admissible" (Resolution of the Supreme Court No. 715/1018/22, 2023). Therefore, the issue was not only the presence of signs of operational search activities due to covert recording but also the chain of evidence, as the phone was not seized, and the prosecution did not copy the disk. However, in the case of covertly recording a telephone conversation, there were no indications of extracting information from the telecommunications networks (Resolution of the Supreme Court No. 758/1780/17, 2022).

In a similar situation, the courts declared recordings from a dictaphone inadmissible, stating that the person deliberately, secretly, and without control recorded conversations, effectively conducting operational search activities using a technical recording device. Ambiguity arises due to the lack of clear data on the time and date when the person actually turned to law enforcement with a statement about possible extortion of a bribe and the presence of dubious information (Resolution of the Supreme Court No. 661/4683/13-к, 2020). Therefore, the courts justified the deliberate nature of the recording (although it is quite difficult to find a situation where a recording made to protect one's rights or legitimate interests is not deliberate since the purpose is to protect one's rights and legitimate interests) while discreetly leaving the possibility of interpreting such recording under other circumstances as situational. There was also a situation where a digital audio recording, which was obviously not situational (accidental), namely an audio recording from a dictaphone made by a private person "for personal use, including for protection of their interests from encroachments of officials of the State Tax Service in Volyn region, who demanded an unlawful benefit" (Skrypnyk & Titko, 2021), was admitted as evidence.

In contrast, in another situation where it was argued that a video recording was an improper piece of evidence (although, in reality, it was about the inadmissibility of evidence) as it was obtained outside the criminal proceedings

without permission from the persons depicted in the video, the Cassation Criminal Court as part of the Supreme Court (hereinafter – CCR of the SC) stated the following: "the victim shot the video on the street near the fence of the building, that is, in a public place, he made this recording openly, non-covertly, moreover, neither the convicted person nor witnesses and other participants depicted on it, expressed the demand not to shoot them, the purpose of this shooting was to record possible unlawful actions against the victim, which indicates its situational nature. These circumstances excluded the need for the convicted person's permission to conduct video recording. The reference of OSOBA_6 to the decision of the Constitutional Court of Ukraine No. 12-RP/2011 is irrelevant since this decision concerns the situation of obtaining factual data as a result of operational search activities, whereas in this case, as already noted, the shooting of victims was conducted openly" (Resolution of the Supreme Court No. 562/744/17, 2021). The important legal position here is the substantive emphasis on open recording, which excludes signs of operational search activities.

Given the prevalence of surveillance cameras, dashcams, and similar technical devices in the modern world, questions have repeatedly arisen regarding the provision of recordings from these devices. During the investigation, arguments arose that the witness personally created the recording by transferring the video from her dashcam to a disk, which was attached to the materials during her interrogation as a witness by the pre-trial investigation authority. However, the court rejected these arguments, noting that the defence unreasonably assumes that the video was obtained illegally, as criminal procedural norms establish a specific procedure for obtaining a disk with a video recording from a witness at the initiative and with the goodwill of the witness, which she provided at the investigator's written request (Resolution of the Supreme Court No. 333/1539/16-к, 2021).

There is a contrasting example, for instance, in a situation related to a laser compact disc and a protocol of inspection of the object – a disc with the recording of a surveillance camera in a cafe-bar. The court decision noted that the origin of the laser compact disc is unknown, and there is no information in the materials about its acquisition (seizure) by the pre-trial investigation authorities in the manner established by the Criminal Procedure Code. The victim handed over this disc, that is, obtained by the pre-trial investigation authority without a ruling of the investigating judge (Resolution of the Supreme Court No. 366/1400/15-к, 2018). In this case, it is important that the first argument listed was that the origin of the disc is unknown, and attention was drawn to the unclear procedural process of its appearance in the materials of the criminal case.

In addition, the factual data from the video disc with recordings from surveillance cameras were deemed inadmissible evidence, as they were handed over to an operational worker before being entered into the Unified Register of Pre-Trial Investigations (hereinafter – URPI) (Resolution of the Supreme Court No. 607/14707/17, 2019). Therefore, it is important who receives such recordings and at what moment. Similar questions arise regarding recording an audio conversation, as the person being recorded is unaware of it. However, there are cases where the factual data from such recordings were deemed admissible evidence, even without voice analysis expertise (Resolution of the Supreme Court No. 182/523/16-к, 2021). An important argument for admissibility was that the suspect handed over the phone; the witness confirmed both the fact of the phone call and that the suspect informed her during the call that he had killed the victim.

General criteria for restricting the right to privacy in criminal proceedings regarding domestic violence. The issue of providing victims with video and audio recordings, especially in cases of alleged domestic violence, is directly related to infringing on the potential perpetrator's right to privacy and to intervening in private communication. It is worth noting that interference in private communication is rightly associated with the context of protecting communication from others, in connection with which V. Teremetskyi *et al.,* (2021) proposed developing an interdepartmental regulation to overcome the problems of legal governance of interference in private communication during covert investigative (search) activities, which would define the basic principles of conducting various types of covert investigative (search) activities and the principles of their implementation mechanism.

The practice of the European Court of Human Rights (ECtHR) established the position that the criteria for lawful restriction of the right to respect for private and family life, guaranteed by Article 8 of the European Convention on Human Rights (1950), are: 1) its implementation in accordance with the law; 2) pursuit of a legitimate aim of interference; 3) necessity of such interference in a democratic society (Judgment of the European Court of Human Rights, No. 41604/98..., 2005). Furthermore, one cannot completely equate situations of the state restricting the right to privacy with private-law relations between individuals when one of them hypothetically commits a criminal offence. However, these aspects are somewhat related to each other, as the relevant evidence in cases of conducting proceedings regarding domestic violence, although provided by a non-governmental participant, is still used by the state conducting the criminal proceedings and has a certain catalogue of positive obligations regarding each person under its jurisdiction.

ECtHR has previously considered cases where applicants raised issues regarding violations of their right to privacy by private individuals rather than the state. This includes cases concerning surveillance in the workplace. One of the key cases in this category is Lopes Ribalda and Others v. Spain (Judgment of the European Court of Human Rights No. 1874/13 and 8567/13, 2019). In this case, the applicants argued that their dismissal by their employer was based on video surveillance that infringed on their right to respect for private life guaranteed by Article 8 of the European Convention on Human Rights (1950) and that national courts failed to protect this right effectively. The employer implemented video surveillance due to suspicion of theft by several company employees and discontinued it once individuals were caught. The ECtHR, finding no violation of Article 8 of the Convention in this case, formulated a test to be applied when determining the justification of such measures, proposing to consider the following criteria: 1) the employee's notification of the possibility of video surveillance; 2) the degree of monitoring and the level of confidentiality; 3) the existence of lawful reasons for monitoring; 4) the possibility of creating monitoring systems based on less intrusive measures; 5) the consequences of monitoring for employees.

It is not possible to fully extrapolate these criteria to situations involving victims providing audio and video

recordings in cases of domestic violence, considering the conceptually different context of these cases. However, certain elements of the described test are partially relevant, considering a similar mechanism of intrusion, namely the collection of video evidence by a private individual and its subsequent use by state agents. Elements of such a test regarding the legality of restricting the right to privacy of the perpetrator in cases of criminal proceedings regarding domestic violence could at least include questions related to the weight of the evidence obtained through covert recordings and whether such measures were strictly necessary. Considering the specific nature of this category of cases, one should also consider the presence of danger to the victim attempting to gather evidence of violence against themselves. For example, it would be unreasonable to argue that upon learning of the victim's collection of evidence, the potential perpetrator could have inflicted even greater harm. If the victim were to act openly, gathering evidence of the criminal offence against themselves without risking their own life and health would be impossible.

However, unlike the classic test of the legality of restricting the right to respect for private and family life, in the context under consideration, the necessity of such interference in a democratic society is less significant, as Ukrainian national legislation does not classify criminal offences related to domestic violence as serious or particularly serious. Similarly, the issue of preventing further criminal offences and ensuring state interests is somewhat secondary in this situation, as the prevailing interest in this category of cases is mostly private.

Presentation of evidence by victims and applicants: incorrect wording. The presentation of evidence by victims should be considered primarily in the aspect of reporting to the police. Studies have shown that the balance of evidence indicates that with an increase in the frequency of abusive behaviour, the likelihood of reporting to the police increases, and most often, such reports are related to abusive behaviour towards children by individuals under the influence of alcohol (Voce & Boxall, 2018). A separate issue, as demonstrated by M. Iliadis' study (2020), is plaintiffs' participation and testimony in court, which is related to their vulnerability and right to privacy.

The Criminal Procedure Code of Ukraine refers to the victim as a subject of proof, directly indicating them as the one who collects evidence in Article 93 and the one responsible for proving in Article 92 (Criminal Procedure Code of Ukraine, 2012). However, the victim's actual possibilities of collecting evidence are limited, although formally restricted only by the provisions of Article 93 of the Criminal Procedure Code of Ukraine. Therewith, the victim is not limited in the right to submit evidence to support their statement during the pre-trial investigation. The right to submit evidence for this participant in criminal proceedings is characterised by its attachment to the pre-trial investigation stage.

Instead, from an unclear logic for the applicant who cannot be a victim, it is directly provided that they have the right to submit items and documents to support their statement (Article 60 of the Criminal Procedure Code of Ukraine). The fact that evidence is not mentioned can be explained from the perspective that at the time of application, there is no criminal proceeding yet, and therefore, it cannot be argued that there is evidence in it. However, it is difficult to understand why a victim, who has their own private interest, formally cannot submit items and documents to support their statement. Moreover, in practice, various situations of submitting statements by victims are possible, not only when information has not yet been entered into the URPI. This is recognised by the legislator, as a person who has suffered from a criminal offence can submit a statement of being a victim for the investigation. There may also be a situation where the investigation is already underway, but the victim is unaware and files a statement of a criminal offence against them. In all these cases, if the CPC of Ukraine is interpreted, nothing can be added to the statement for its confirmation (for example, documents on the value of the stolen property), although it is in the interest of the victim for the statement to be justified, as the opposite carries the risk of not entering information into the URPI.

On the other hand, it seems that a person who has suffered from a crime must contact the investigator or detective at least twice: with a statement under Article 55 of the CPC of Ukraine and with a motion regarding the acceptance and attachment of items and documents to the materials of the criminal proceedings (Criminal Procedure Code of Ukraine, 2012). Moreover, the victim usually has psychological trauma from the commission of a criminal offence (and in some cases, also physical) and does not always have legal assistance, so there is a risk of re-traumatisation. This is especially true now for victims of war crimes.

A separate issue arises in terms of procedural speed and promptness in establishing circumstances, as additional applications to the investigator or detective are required from the person. The situation is further complicated in case of a change of the victim's location, which is especially relevant in conditions of martial law. Although electronic means of communication and electronic digital signatures can be used, this can be a problem for certain groups of victims, such as those who do not have such a signature, are outside Ukraine, and cannot obtain it.

It is worth noting that there are contradictory positions in the doctrine regarding the possibility of victims submitting items and documents along with their statement (Krushynskyi, 2017). The Supreme Court's judicial practice confirms the literal interpretation of the right of the victim to submit only evidence (Resolution of the Supreme Court No. 607/14707/17, 2019). Therefore, according to the current norms of the CPC of Ukraine, however controversial it may seem, it is procedurally more appropriate for the victim not to submit the statement themselves but for another person to do so on their behalf. This approach allows for the immediate submission of items and documents for confirmation and ensures procedural efficiency for the victim. Nevertheless, this is not possible under private prosecution, and Article 126-1 of the CC of Ukraine, which relates to domestic violence, falls under this category of proceedings.

Thus, such a regulatory framework likely does not reflect the victim-oriented approach in the EU and the provisions of the Istanbul Convention, which stipulates the investigation without undue delay and considering the rights of the victim at all stages of criminal proceedings (Article 49) (Council of Europe Convention on preventing and combating violence..., 2011). However, the mechanism for resolving the issue of whether temporary access to items and documents belonging to the victim is mandatory fits within the framework of this approach. CCR of the SC has recognised that if the participant in the criminal proceedings

voluntarily provides documents in their possession, there are no grounds or conditions to apply to the investigating judge for temporary access to documents and items (Resolution of the Supreme Court No. 333/1539/16-к, 2021). Therefore, the key issue in this matter is the voluntary provision of items and documents, and it does not matter whose initiative it is for assessing the legality of the procedural action.

Recording domestic violence: vulnerability of victims and specificity of situations. For criminal proceedings related to criminal offences involving domestic violence, the issue of recording is of great importance, considering that such situations typically occur in the home and in the absence of witnesses. Moreover, in such situations, one of the parties belongs to a vulnerable group and/or is in a vulnerable situation, as rightly noted in the study by O. Stepanenko *et al.* (2023). Strengthening accountability is said to be the main method of combating such violence. However, without theoretical and methodological elaboration of the issues of proving the fact of violence in such conditions, strengthening accountability will not have the necessary effect, as it is vital to ensure the right to a fair trial for the person who is alleged to have committed the offence. Therefore, the question of admissibility is crucial for protecting victims and establishing the offender's guilt. It is worth agreeing with the opinion about the importance of these sources of evidence for understanding the context of the incident and the possibility of their investigation through expert examination (Srinivasa Murth & Nagalakshmi, 2023). This became particularly important during the pandemic, as the indicators of domestic violence, as comparative studies by A.R. Piquero *et al.* (2021) indicate, have increased. Still, the exact nature and context of the increase remain unknown.

It is important to note that there is a position of the CCR of the SC regarding Article 390-1 of the Criminal Code of Ukraine (Criminal Code of Ukraine, 2001) when the convicted person considered the video made by the victim inadmissible because, by recording such a video on her phone, the victim was conducting operational search activities, which is directly prohibited by law (Resolution of the Supreme Court No. 643/8875/21, 2023). The CCR of SC stated that the victim acted situationally, aiming to protect her rights and freedoms in the future, as the convicted person disregarded the restraining order. Therefore, such actions do not fall under the concept of "operational search activities". This situation can be analysed within the concept of digital necessary defence, which includes two aspects:

- Digital self-defence, which involves using any legal means to protect one's rights and freedoms from violations and illegal encroachments. This approach is closely related to the use of other constitutional powers, such as the right to freely collect, store, use, and disseminate information in any way one chooses.
- Digital protection of another person, representing a legally permissible way to protect against unlawful encroachments on the person who has waived the right to correspondence secrecy and non-interference in personal and family life (Skrypnyk, 2021).

Unlike the situation described above, in proceedings under Part 1 of Article 173-2 of the Code of Ukraine on Administrative Offenses (1984), the court formally referred to the Decision of the Constitutional Court, using an analogy of law and stating that "the court has not been presented with any evidence indicating the accidental nature of the victim's receipt of a video recording of the event for which the protocol was drawn up" (Resolution of the Ternopil Court No. 607/15858/21, 2022). It is difficult to agree with this approach since, as can be seen from the analysis of the practice of the CCR of the SC, it subjects the circumstances of obtaining the video recording to substantive analysis, evaluating the situational nature of the actions and the presence/absence of signs of operational search activities.

The discussion on the admissibility of recording: *quo vadis*? The analysis of practice shows that, firstly, it is not consistent (precisely because of the interpretation of the Constitutional Court's decision), and secondly, much attention is paid to the specificity of the situation (the source of the recordings, the method of obtaining them, the situation recorded, the nature of the relationship between the persons, the purpose, etc.). Moreover, as rightly noted by O.P. Hura (2020), although not in the context of criminal proceedings regarding domestic violence, the Supreme Court now pays attention to the origin of the video evidence and the method of obtaining such evidence by investigation. This approach is in line with the opinion of K. Kryvenko (2021), who states that the court may accept a video recording in a witness's possession as admissible evidence if the pre-trial investigation authority properly documents its acquisition through the procedure defined by the Criminal Procedure Code of Ukraine.

Furthermore, it is quite difficult to identify criteria for differentiating between the initiative and situational nature of the victim/witness's actions, especially for the submission of evidence by victims, given that the criteria for differentiating between the initiative and situational nature of the victim/witness's actions are not clear. If victims and witnesses are not forced to record video, surveillance cameras continuously record regardless of the wishes of those in/near the premises. The analysis conducted by A.V. Skrypnyk and I.A. Titko (2021) demonstrates that the recording by surveillance cameras, car video recorders, or body cameras (video recorders) of police officers; situational audio recording of conversations made initially for another purpose; photo and video materials captured by a large number of citizens, journalists, who accidentally became witnesses to events; video recording from a phone whose camera turned on automatically were was recognised situational (accidental).

In the context of identifying signs of operational search activities, as seen from the judicial practice, the key factor is the covert/overt nature of obtaining information. However, this is not deterministic, and attention should also be paid to the targeted nature of the activity. Operational search activities aim to identify and document facts of unlawful actions by individuals or groups for which liability is provided under the Criminal Code of Ukraine. It is also aimed at identifying and preventing intelligence subversive activities of foreign special services and organisations aimed at violating laws to ensure law and order and obtain information in the interests of the security of citizens, society, and the state (Article 1) (Law of Ukraine No. 2135-XII…, 1992). In situations where, in the opinion of the victim, unlawful actions are being taken against them, it cannot be argued that there is a search for factual data, as no search measures (which are an element of the legal definition of operational search activities) are being performed. It is worth noting that this does not agree with O. Stepanenko *et al.* (2023) regarding domestic violence being committed based on the specific role of the

person, as the importance of committing domestic violence is not the "role" of the perpetrator, especially within the family, but the influence they have on the victims. That is, the variations of family roles "perpetrator – victim" are very different, as seen from court decisions (father/mother – child, husband – wife, wife – husband, son – mother, daughter – father, etc.). What matters is the ability to commit domestic violence, that is, the presence of a resource of strong influence (power) and the inability (or complexity) of the victims to resist, and this applies to all forms of domestic violence, although the ability to resist will depend on the specific form.

Continuing the idea that in situations of domestic violence, there is no such thing as searching for factual data or signs of operational search activities, provide arguments to support this position. Suppose the use of technology, including any mobile phone, is considered an operational search activity. In that case, its boundaries are blurred, and ordinary activity using technical means cannot be distinguished from the special direction of state activity, which cannot be the legislator's intention.

Furthermore, there is no general prohibition on private individuals conducting audio and video recordings or photography, provided that the provisions of the Constitution of Ukraine (1996), Criminal Code of Ukraine (2001), and Civil Code of Ukraine (2003) are observed. The Criminal Procedure Code of Ukraine (CPC) does not regulate the issue of collecting factual data by victims and witnesses outside of criminal proceedings, meaning there is no prohibition on the use of technical means either. This interpretation is fully relevant to the new article of the CPC of Ukraine – Article 245-1, which allows obtaining electronic evidence, including from private individuals. It is, therefore reasonable to agree with the view that the most appropriate criterion for the admissibility of factual data obtained by private individuals seems to be "generally permissible", the content of which is revealed through the prism of established prohibitions (rather than permissions), including criminal law ones (Articles 162, 163, 182) (Criminal Procedure Code of Ukraine, 2012). As noted by A.V. Skrypnyk and I.A. Titko (2021), what is obtained without their violation should be considered lawful.

When the purpose is to expose a specific individual, the situation appears to be more complex. The Supreme Court justified in its ruling that a witness who recorded a conversation with others on a dictaphone initiated operational search activities on their initiative (Resolution of the Supreme Court No. 305/2022/14-к, 2021). There are other examples of identifying purposefulness as a sign of operational search activities (Resolution of the Supreme Court No. 661/4683/13-к, 2020; Resolution of the Supreme Court No. 715/1018/22б, 2023). However, not every purpose of exposure can indicate the presence of signs of operational search activities (hereinafter – OSA); for example, documenting unlawful actions in a public place, recording on a surveillance camera, and dashcam does not indicate the presence of OSA signs, and the CCR of the SC confirmed this. The purpose and purposefulness should be interpreted in conjunction with other signs to determine whether there are signs of OSA in a particular case.

Given the digitalisation of social relations, the modern interpretation of the decision of the Supreme Court of Ukraine dated October 20, 2011, should be substantial. The decision of the Supreme Court formally touches upon two situations: 1) operational search activities of an authorised person without compliance with constitutional provisions or in violation of the procedure established by law, and 2) purposeful actions to collect and record using measures provided for by the Law of Ukraine "On Operative and Investigative Activities" (1992), by a person not authorised to engage in such activities. When examining the decision of the SCU in substance, it is clear that it addresses the prohibition of conducting OSA with violations of procedure by an authorised person and by an unauthorised individual. However, it refers to operational search activity by its nature, regardless of the subject. Examining solely the normative aspects of OSA and their objectives makes it clear that using only technical means is inadequate for categorising specific activities as OSA. The proactive nature cannot be assessed without considering other characteristics, as surveillance cameras, for example, are placed purposefully to document possible criminal offences, but this does not constitute OSA. Recording can also be done to ensure that important sources of evidence are not lost, such as in the case of a road traffic accident.

Therefore, for audio and video recordings to be deemed inadmissible evidence, all the elements of OSA must be present: secrecy, the search for and documentation of factual data on unlawful acts (as a whole, not just documentation), conducted in the interest of criminal proceedings. Initiative behaviour cannot currently be perceived as a characteristic of OSA, considering the changed practices regarding documentation in public places and vehicles. Such characteristics can be established when such documentation is part of a covert operation within OSA or covert investigative actions.

Conclusions

The study explored the issue of using video and audio recordings provided by victims of domestic violence as evidence. It examined the general problems of submitting such recordings in criminal proceedings and notes that this mechanism is used in practice but evaluated differently in court decisions. The study also discussed the general criteria for limiting the right to privacy in criminal proceedings regarding domestic violence and proved that extrapolating the practice of the ECtHR is not possible due to different contexts. However, based on the previous ECtHR practice in cases related to covert video surveillance, the elements of the test of the lawfulness of restricting the perpetrator's right to privacy in criminal proceedings regarding domestic violence may include aspects such as: 1) the weight of evidence obtained through the use of secret recordings; 2) the exceptional necessity of secret video surveillance measures; 3) the danger to the victim trying to gather evidence of violence against them. Based on an analysis of the CPC of Ukraine, the study demonstrated the inconsistency in the regulation of evidence submission by victims and applicants. Considering the vulnerability of victims and the specificity of situations, the need for video and audio recordings of domestic violence was justified.

New arguments on the admissibility of recording were presented in the discussion. Emphasis is placed on the importance of the criterion of a secret operation, which is distinguished as a condition for considering audio and video recordings as inadmissible evidence. Considering this, in the evidence in criminal proceedings regarding criminal offences related to domestic violence, this condition cannot be fulfilled in the vast majority of situations, although exceptions

may exist, for example, regarding Article 115 of the CC of Ukraine. This is because for such criminal proceedings, personal recording is the only way to obtain relevant sources of evidence, as domestic violence usually occurs in private; for the victim, such recording is primarily a way to prove that domestic violence occurred and there is a risk of its recurrence, i.e., a certain way of protection. In this situation, the restriction of the perpetrator's right to privacy is justified by the weight of the evidence and the impossibility of obtaining it by other means. The secrecy of the recording is driven by the fear of further harm to the victim, not by the intent to violate the rights of the perpetrator, who, by committing a criminal offence, should understand that criminal liability is incurred for this. In such circumstances, there is no basis to speak of a "secret operation". Therefore, in criminal proceedings concerning domestic violence offences, video and audio recordings should be considered admissible unless there are specific grounds outlined in the CPC of Ukraine for deeming them inadmissible, as they do not possess the characteristics mentioned in the decision of the SCU.

Further research areas may include analysing the effectiveness of using video and audio recordings provided by victims of domestic violence as evidence, which will require content analysis of verdicts and conducting surveys.

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Conflict of interest

None.

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Використання в доказуванні відеозаписів та аудіозаписів, які надали потерпілі від домашнього насильства

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Анотація. Актуальність дослідження полягає у нагальній потребі вироблення науково обґрунтованих та практично застосовних критеріїв допустимості використання таємних аудіо- та відеозаписів, здійснених потерпілими у кримінальному провадженні щодо домашнього насильства. Мета дослідження полягає у встановленні того, чи можна використовувати як докази у кримінальному провадженні щодо домашнього насильства відомості, що містяться на аудіо- та відеозаписах, які потерпілі здійснили таємно. Основні методи дослідження – системний, аналізу та синтезу, історичний, евристичний, формально-юридичний метод. Досліджено питання надання записів потерпілими, свідками, іншими особами для цілей кримінального провадження; загальні критерії обмеження права на приватність у кримінальному провадженні щодо домашнього насильства; проблеми подання доказів потерпілими та заявниками; питання фіксування фактів домашнього насильства; питання допустимості фіксування. Доведено, що елементами тесту правомірності обмеження права на приватність кривдника у випадку здійснення кримінального провадження щодо домашнього насильства можуть бути питання пов'язані із тим, наскільки вагомими є докази, отримані шляхом застосування таємних записів, а також чи були такі заходи винятково необхідними. Аргументовано, що з урахуванням критерію таємної операції, який виокремлено як умову для визнання аудіо- та відеозаписів недопустимими доказами, слід визнати, що у доказуванні у кримінальному провадженні щодо кримінальних правопорушень, пов'язаних з домашнім насильством, відеозаписів та аудіозаписів, наданих потерпілими, ця умова у переважній більшості ситуацій не може бути реалізована. Практична цінність дослідження полягає у можливості уніфікації правозастосовної практики в частини визначення допустимості як доказів відомостей, що містяться на аудіо- та відеозаписах, здійснених таємно потерпілими у кримінальному провадженні щодо домашнього насильства

Ключові слова: аб'юзивна поведінка; учасники кримінального провадження; досудове розслідування; електронні докази; допустимість доказів; вразливі потерпілі

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Enforcement of decisions of national courts in cases of compensation for damage caused as a result of armed conflicts

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Abstract. The relevance of the study is due to the lack of proper legal regulation in the field of legal determination of the procedure for executing a court decision under which a foreign state (aggressor or occupier) acts as a debtor. The purpose of the study is to develop a mechanism for effective protection of the rights of Ukrainian recoverers in cases of compensation for damage by the state aggressor through the prism of proper enforcement of court decisions in these categories of cases. In the course of the study, a number of general scientific and industry methods are applied, in particular, the method of analysis and synthesis, system, structural-functional, dialectical, historical, and hermeneutical methods. The paper analyses the legal positions of the European Court of Human Rights regarding the right to appeal to the court in cases of debt collection from a foreign state as compensation for material and/or moral damage caused to individual applicants. The study examines the practice of the national courts of Ukraine in cases of claims of individuals – citizens of Ukraine against a foreign state for compensation of material and (or) moral damage caused by the invasion of the territory of Ukraine. It is established that a state cannot be allowed to use the doctrine of sovereign immunity as a shield for its violations of other doctrines of international law, such as international law on armed conflicts. The expediency of applying the model of functional (limited) immunity, which is becoming increasingly widespread and recognised by advanced countries of the world, is justified, considering its practicality and compliance with modern requirements for the development of society and leading trends in the development of international law. The results of the study can be used for further scientific developments of the outlined problems in the rule-making process, both in the conclusion of international treaties and in national legislation and in the law enforcement process in the implementation of legal proceedings

Keywords: enforcement of court decisions; enforcement proceedings; executor; enforcement of decisions; recoverer; debtor-a foreign state; protection of human rights

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Introduction

Since 2015, Ukrainian citizens who participated in military operations were in captivity, belonged to the families of the victims, or were internally displaced persons who were harmed as a result of the armed invasion of Ukraine in 2014 apply to the Ukrainian courts with claims for compensation for both material and moral damage. After examining such claims, the courts, among other things, decided to satisfy the claims and determined the payment of compensation to the applicants. After receiving the enforcement document for such a decision, the recoverers applied to the State Executive Service body (hereinafter referred to as the SES) with applications for its enforcement in connection with non-fulfilment of payments by a foreign debtor state. However, enforcement of the recovery of the amount of compensation for the damage caused was impossible because the legislation of Ukraine, in particular, the Law of Ukraine "On State Guarantees Regarding the Execution of Court Decisions" (2012), the Law of Ukraine "On Executive Proceedings" (2016), does not regulate this type of legal relationship. Therefore, there is a gap in the legislation of Ukraine in regulating the procedure for executing court decisions when the debtor is another occupying state or an aggressor state.

N. Wieb and A. Zimmermann (2022) point out that international humanitarian law is applicable in times of armed conflict, and issues of compensation for victims of its violations are becoming particularly relevant. O. Hnativ (2023), examining the procedure for determining the composition of losses and damages caused as a result of armed aggression, indicates that they can be compensated through judicial protection or by creating appropriate funds that will provide such compensation (the so-called compensation procedure). However, the researcher does not offer a solution to the question of the future fate of the decision taken by the National Court against the occupying state or the aggressor state or mention the mechanism of actual execution of such court decisions. A similar approach can be traced in the paper of N. Kaminska and N. Kosiac (2017).

N. Onishchenko *et al.* (2023), outlining the need for regulatory regulation of compensation for damage caused by armed aggression to legal entities and individuals, including foreigners and stateless persons, suggest that when forming national compensation procedures for damage, consider such factors as registration and accounting of damaged property, fixing expenses to the person incurred by them, and identifying the link between this damage and military actions committed by the aggressor state. In addition, researchers rightly emphasise that compensation is subject not only to material damage caused to a person but also to moral damage, compensation for which is conducted exclusively in court. Despite this, the specific features of consideration and decision by the court of cases on compensation for damage caused as a result of armed aggression of another state, and the issue of actual execution of court decisions taken on compensation for such damage, remain ignored.

I. Izarova *et al.* (2023), analysing the legal issues of compensation for losses caused by war, concluded that considering the practice of the European Court of Human Rights (hereinafter – ECHR) in the approach to solving this issue and its impact on decision-making by national courts, it is necessary to introduce a simplified procedure for considering such categories of cases. According to the researchers, this approach, on the one hand, will unify judicial practice, and on the other, it will protect plaintiffs from a rather long, complex and cumbersome legal process, which will contribute to the protection and restoration of their rights. However, it is not clear how court decisions on compensation for non-pecuniary damage caused by an armed invasion of the territory of Ukraine, taken under such a simplified mechanism, should be implemented.

P.V. Otenko (2023) notes that in the national legislation of Ukraine, there is no proper legal regulation of the enforcement of court decisions under which the debtor is a foreign state, which proposes to apply a special international compensation mechanism, according to which the special commission, when considering the award of payments for damage caused, proceeded from the provisions declared in the court decision taken against such a person. Thus, the researcher is more inclined to use international compensation mechanisms than to introduce appropriate legal mechanisms at the level of national legislation and adjust the legal regulations of the procedures for the enforcement of court decisions. Notably, there is no proper legal regulation of the issue of state immunity through mechanisms that would be established by the national legislation in Ukraine, which contributes to the formation of different approaches to understanding the essence of the concept of state immunity by researchers and practitioners, generates heterogeneous judicial practice, and also complicates the search for ways of legal settlement.

On the other hand, researchers note that with the invasion of Russia on the territory of Ukraine, the system and procedure for the enforcement of court decisions in general has undergone substantial changes. In particular, V. Kovalsky (2022) and A. Avtorgov (2023) indicate that the military conflict on the territory of Ukraine and the introduction of martial law in this regard required the legislator to introduce a number of restrictions in the procedure for implementing enforcement proceedings. V. Prytuliak *et al.* (2022) and N. Shelever *et al.* (2023) recognise the necessity and balance of such restrictions, and their relevance, according to researchers, is primarily due to the protection of national interests. However, as they rightly pointed out, the application of such restrictions in those enforcement proceedings in which debtors are persons associated with the aggressor state will be complicated or even impossible since the legislator has not clearly formulated the relevant restrictions, which leads to ambiguity in the interpretation of their content.

N. Sergiienko *et al.* (2022) note that considering the experience of different countries, in this perspective, it is worth reviewing the acceptability and relevance of the system of organising the enforcement of decisions for a particular state (considering its legal traditions, the level of development of civil society, the mechanism of the state, the legal system, etc.).

The review of these papers indicates the absence of comprehensive and fundamental research that would directly relate to the disclosure of problematic issues related to the execution of court decisions in cases of compensation for damage caused as a result of armed aggression by the occupying state. In this regard, the purpose of this study is to determine an effective mechanism for the proper execution of court decisions on compensation for damage caused as a result of armed aggression by the state occupier, as an integral element of the right to judicial protection of violated rights of persons.

A number of general scientific and sectoral methods were applied to achieve the purpose of the study, in particular: dialectical, with the help of which the gap in the legal regulation of the issues of restoring the rights of persons who were harmed as a result of armed conflict was stated; historical analysis – the use of this methodallowed presenting the genesis of the legal positions of the ECHR on the outlined issues; hermeneutical – through the application of this method, the content of the main doctrines of state immunity was clarified; analysis and synthesis – was used during the examination of the positions of researchers on compensation for harm to citizens of Ukraine; deduction – allowed making a transition from the general provisions of the theory of law on compensation for harm to the problem of compensation material and moral damage caused as a result of armed conflict; systemic and structural-functional – allowed developing provisions for the restoration of human rights; legal axioms – based on the provisions of international law, the issue of state immunity was investigated; formal-dogmatic – with its help, the current legislation was analysed and proposals for its improvement were formulated. In addition, a number of legislative acts (for example, conventions, international treaties, national legislation) and their law enforcement (decisions of the ECHR and decisions of national courts of Ukraine) were used in the process of conducting this study, which became the empirical basis of the paper.

Legal positions of the ECHR on the right to apply to the court for protection in cases of debt collection from a foreign state

The ECHR in "Bellet v. France" (1995) emphasised that Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) (hereinafter referred to as the Convention) includes a system of guarantees of fair trial, one of the elements of which is access to a court. The degree of access provided for by national legislation should be sufficient to ensure a person's right to a court in view of the principle of a democratic society such as the rule of law. A person must have a clear and real opportunity to appeal against actions that constitute interference with their rights to effectively ensure access to a court. O.R. Balatska (2022) and M.O. Hetmantsev (2023) have repeatedly noted that according to many cases considered by the ECHR, the right of access to a court is the main component of the right to judicial protection, that is, a person must have a real opportunity to apply to a court in order to resolve a certain issue and the state should not put legal or factual obstacles to the exercise of this right. In particular, this position of the court is reflected in such cases as "Golder v. The United Kingdom" (1975), "Bellet v. France" (1995), "Gorgiladse v. Georgia" (2009), etc).

One of the priorities in the judicial review of cases, the ECHR determines its duration. According to the well-established practice of the ECHR, the case "Pélissier and Sassi v. France" (1999) and "Frydlender v. France" (2000) – reasonable length of proceedings requires an assessment of the circumstances of a particular case and such criteria as the conduct of the person applying to the court and the competent authorities, the complexity of the case itself, and the importance of the dispute for the subject of the appeal. The national courts of Ukraine are also trying to follow this guideline.

ECHR, in the case of "Hornsby v. Greece" (1997), notes that a person's right to a court would become an empty illusion if the Justice of a state party to the convention allowed for non-enforcement of a binding judgment, which could harm one of the parties. It cannot even be assumed that Article 6 of the Convention, which regulates in detail the procedural guarantees for the parties to a legal dispute, such as prompt, public, and fair proceedings, does not provide for the execution of a court decision. If Article 6 of the convention (1950) was considered solely as a declaration of the right to judicial protection and access to a court, this could lead to situations contrary to the principle of the rule of law, which, by ratifying the convention, states parties undertook to respect. In addition, the ECHR has repeatedly expressed in its decisions about the existence of a problem of non-enforcement of court decisions in Ukraine. Thus, for example, in the case of "Yuriy Mykolayovych Ivanov v. Ukraine" (2009) of the ECHR states that more than half of the decisions of the ECHR against Ukraine are related precisely to the long-term non-compliance of the Ukrainian authorities with the final court decisions.

The issue of special (non-contractual) civil and international liability of foreign states for damage caused by armed conflicts, as rightly noted by B. Karnaukh (2022), is inextricably linked to sovereign immunity. S.T. Mouland (2021), D. Franchini (2023) and Y. Mordecai (2023), and note that sovereign immunity should be understood as the ability of a sovereign state not to obey the authorities of a foreign country. In this regard, in the doctrine of international law, in particular, such researchers as A. Sanger (2016), P.D. Winch (2021), C.E.P. Tache (2023) identify the following types of jurisdictional immunities: 1) judicial immunity (from lawsuits); 2) immunity from securing a claim, in particular the previous one; 3) immunity from enforcement of court decisions by force; 4) property immunity (from interference with property).

It can be argued that the formation of the ECHR's position in the category of cases related to the immunity of a foreign state began with the 2002 decision in the case "Kalogeropoulou and others v. Greece and Germany" (2002). The application was filed by 257 Greek citizens, relatives of victims of mass executions conducted by the Nazi occupation forces in the village of Distomo in 1944. This was preceded by the adoption in 1997 by the Greek national courts, which were upheld by the Greek Supreme Court, obliging Germany to pay compensation to the plaintiffs who were the legal successors to the victims of the massacre in the village of Distomo.

The plaintiffs applied to the minister of justice for appropriate enforcement authorisation to enforce this judgment against a foreign state in Greece, as required by Article 923 of the Greek Civil Procedure Code (1985). However, such permission was not granted. As a result, the court's decisions against Germany remained unenforced in Greece. The plaintiffs filed a lawsuit with the ECHR, claiming that Germany and Greece violated Article 6 (1) of the Convention and Article 1 of Protocol No. 1 of this convention (1950) by refusing to comply with the decision of the Greek National Court of 1997 (in relation to Germany) and not allowing this decision to be implemented (in relation to Greece). In its decision, the ECHR, referring to the state immunity rule, ruled that the plaintiffs' application was inadmissible.

With regard to the right to appeal to a court (Article 6, paragraph 1 of the Convention), the ECHR agreed that the refusal of the Greek authorities to authorise the enforcement of the District Court's judgment, which had been in favour of the applicants and established the defendant's obligation to pay compensation, constituted a restriction on the applicants' right of access to justice. Therewith, granting the authorities of their state to a foreign state "sovereign immunity" from prosecution in the field of civil law is aimed at observing the norms of international law regarding international politeness (*comitas gentium*) and showing respect for the sovereignty of a foreign state.

Regarding the enforcement of decisions (Article 1 of Protocol 1 to the Convention), the ECHR notes that when the court issued the final decision, the applicants acquired the right of claim against Germany in respect of "property" within the meaning of Article 1 of Protocol 1 to the Convention (1950). However, the refusal to authorise the enforcement of German property located in Greece was conducted "in the public interest", namely, to avoid undermining relations between Greece and Germany. According to ECHR, it was impossible to oblige the Greek authorities against their will to violate the principle of a state's immunity from prosecution on the territory of another state and to put friendly inter-state relations at risk to allow applicants to resort to enforcement of a court decision taken in their favour in a civil case.

The court emphasises that by turning to the enforcement proceedings, the applicants should have been fully aware that, in the absence of the prior consent of the minister of justice, they would most likely not be able to achieve anything. Therefore, the real situation could not objectively give the applicants grounds to reasonably hope for the payment of the amounts awarded to them. After all, the applicants had not lost the opportunity to assert their rights against the German state; it could not be ruled out that enforcement might take place in the future. Therefore, the courts' refusal to authorise enforcement did not upset the balance that must exist between the rights of individuals and the public interest.

Ambiguity is characterised by the decision of the ECHR in the case "Al-Adsani v. the United Kingdom" (2001), which was adopted with a margin of only one vote, that the immunity granted to the state of Kuwait takes precedence over the claim filed in the British court by a victim of torture for compensation for the damage caused. The majority of judges (9 against 8) noted that since the prohibition of torture is of a special nature in international law, the court cannot determine in international documents, judicial authorities, or other materials whether there are irrefutable grounds for believing that a state, according to the norms of international law, does not exercise immunity from a civil claim in a court of a foreign state claiming to have committed torture against a person. A minority of judges stressed that the conclusion that a mandatory rule (jus cogens) constitutes a prohibition of torture would necessarily mean that it would take precedence over other rules of lower status, such as the immunity of a state that has not received such status under international law.

The ECHR in the case "Jones and others v. The United Kingdom" (2014) identified no violation of Article 6 of the convention (1950). November in a situation where a British court rejected the claim of victims of torture filed against Saudi Arabia. However, the court noted that the development of the law in relation to sovereign immunity at the time of the decision is in a dynamic development and, considering developments in the field of international law on this issue, encourages a periodic review of its conclusions. Thus, the ECHR does not rule out the possibility that new exceptions may arise in international law over time in the application of sovereign immunity. Therefore, the ECHR established that granting sovereign immunity to a state in civil proceedings is a legitimate goal that promotes compliance with the norms of international law on the basis of the principles of international politeness and supports the creation of positive relations between states, provided that states mutually show respect for the sovereignty of another state.

Considering the case "Cudak v. Lithuania" (2010) on the violation of the right to appeal to the court, the ECHR touches on the historical component of the issue and notes that in recent years the application of the rules on absolute immunity of states has been weakened. In 1979, the International Law Commission was tasked with streamlining and gradually developing international law in the context of jurisdictional immunity of states and their property. As a result of this work, in 2004, the General Assembly of the United Nations (hereinafter referred to as the UN) adopted the Convention on jurisdictional immunity of a state and its property (2004). Its provisions apply to Lithuania by virtue of customary international law.

The ECHR points to the principle established by international law that even if a state has not ratified a treaty, it may be subject to one of its provisions because such a provision reflects customary international law, "codifies" it, or creates a new customary prescription. The court notes that there is a trend both in international law and in the practice of an increasing number of countries that impose restrictions on the application of rules of sovereign immunity but draws attention to the fact that such restrictions must have a legitimate purpose and be proportionate to it. The ECHR also emphasises that the establishment of immunity for a particular state in civil proceedings has a legitimate goal – compliance with the requirements of international law aimed at achieving polite and good relations between states, which is manifested in respect for each other's sovereignty. In the cited case, in 2010, the court concludes that the Lithuanian judicial authorities committed a violation of the essence of the right of access to a court in respect of the applicant, stating that there was no competence to examine her claim. By doing so, the ECHR confirmed the existence of exceptions related to the immunity of states.

In the case of "Oleynikov v. Russia" (2013) the ECHR decided that the 2004 UN Convention applies in accordance with generally accepted norms of international law, even in cases where it has not been ratified by the relevant state convention, if it has not protested against it. The Russian Federation (hereinafter referred to as the RF) did not ratify this convention but did not raise any objections to it; on the contrary, it signed it on December 01, 2016. The ECHR stressed that the establishment of sovereign immunity in civil proceedings is aimed at achieving the legitimate goal of international law – promoting commitment and achieving good relations between states through the prism of respect for the sovereignty of a foreign state. Since the national courts of the Russian Federation refused to examine the applicant's claim by applying the absolute immunity of the state from the jurisdiction without any analysis of the provisions of legislation and treaties, without examining the

merits of the dispute, giving specific and complete reasons, or considering the applicable requirements of international law, the ECHR finds that by dismissing the applicant's claim, the Russian courts failed to maintain a reasonable balance of proportionality. Therefore, they committed a violation of the essence of a person's right to apply to the court for protection. In this regard, the norms of the Convention (2004) were also violated. Consequently, the requirements under the 2004 UN Convention apply to the respondent state in accordance with generally accepted standards of international law. The court must consider this fact when deciding whether the right of access to a court has been violated, as defined in the convention (2004).

In the case of "Loizidou v. Turkey" (1998), the ECHR ruled that the Republic of Turkey must pay compensation to the claimant, including compensation for moral suffering, as a result of the illegal occupation of the northern part of Cyprus by the Turkish Armed Forces, where the claimant was born and lived. The applicant in the present case is a citizen of Cyprus and owns plots of land, access to which she lost after the Turkish occupation of Northern Cyprus on 20/07/1974. She argued that she was entitled to just satisfaction on account of a prolonged breach of her property right, which prevented her from "enjoying it peacefully" because of the presence of Turkish troops there. Since, from 1974 onwards, the applicant had effectively lost all control of her property, the court concluded that the continuous denial of access to her property had been an unjustified interference with her property rights and a violation of the UN Convention (2004), and the related loss of any control over the property was an issue that fell within Turkey's jurisdiction.

With this in mind, the ECHR considers that the issue of Turkey's responsibility under the UN Convention (2004) in relation to the contested issues is *res judicata*. The court states that it should decide to force Turkey for a payment of just satisfaction to the applicant. The ECHR is not convinced by the argument that this approach will undermine political discussions about the Cyprus problem when considering the case on the merits of the stated claims. Consequently, the court awarded the payment of just satisfaction as compensation for the breach of property rights, which includes redress for the damage suffered and compensation for the suffering and feelings of helplessness and frustration that the applicant had experienced over the years by not being able to use her property as she saw fit. However, no information has been established about the actual payment by the foreign respondent state of the awarded compensation for pecuniary and non-pecuniary damage.

Therefore, filing individual applications against foreign countries is a fairly common practice in the ECHR, which cannot be said about the direct implementation of such decisions. Notably, Ukrainian citizens could file claims to the ECHR until 16.09.2022, since the Russian Federation denounced the Convention and left the Council of Europe, and this date is determined to be the extreme date for filing new claims. Although the court has the competence to consider claims filed before this date, there is also no mechanism for implementing the ECHR decisions resulting from their consideration. Thus, the current practice of the ECHR shows that the norms unified in the conventions on the immunities of states are applied by the judicial authorities in accordance with the requirements of customary international law. Therewith, the purpose of granting immunity to a foreign state during the trial of a case is precisely the criteria of politeness, respect, and good relations, which, of course, cannot relate to the circumstances of war. The existence of decisions taken on debt collection from a foreign state as compensation for material and/or moral damage caused to individual applicants, and the lack of legal means in practice to protect and restore their violated rights, indicate the possibility of applying the ECHR practice as a basis for the formation of a legal framework and national law enforcement practice in Ukraine, but it should not be considered as a single platform for protecting the rights of Ukrainians in this category of cases.

Practice of national courts of Ukraine in cases of claims of individuals-citizens of Ukraine regarding compensation for material or moral damage caused during an armed conflict

Judicial practice in cases involving claims of individuals-citizens of Ukraine to the Russian Federation for compensation for material and moral damage began to take shape in 2016 and still remains ambiguous. Individual courts, when considering the jurisdiction of such cases, do not assess the norms on jurisdictional immunity of foreign states (Decision of the Yarmolyn District Court..., 2016; Decision of the Lychakiv District Court..., 2019). Other courts refer to international treaties regulating foreign policy issues and establishing general principles of Foreign Relations and refuse to recognise the jurisdictional immunity of the aggressor state (Decision of the Holosiivskyi District Court..., 2016; Decision of the Starobilsk District Court..., 2018; Decision of the Solomianskyi District Court..., 2023). It is also quite common to refuse to consider such claims due to the jurisdictional immunity of foreign states (Resolution of the Civil Court of Cassation within the Supreme Court..., 2020; Decision of the Kramatorsk City Court..., 2021). Therefore, in the judicial practice of Ukraine, there is no unified approach to the issue. On the one hand, the courts satisfy the claims of citizens and legal entities, referring to the norms of the Constitution (1996) as norms of direct action and to general principles of law. On the other hand, they refuse to satisfy the claim, citing the need to obtain the consent of the competent authority of the aggressor state and/or the occupying state to enter into legal proceedings on the territory of Ukraine.

In certain cases, the courts note that in the absence of such consent, court decisions on the territory of Ukraine may not be recognised by the Russian Federation and, therefore, will not be implemented. This may lead to the loss of a real opportunity to protect and restore the rights of Ukrainian citizens as a result of these court decisions. However, it is obvious that requests from the courts of Ukraine for such consent are doomed to failure and will only delay the consideration of cases in violation of the requirements of the convention regarding the reasonableness of the time frame for consideration of cases in court.

In addition, there is a position according to which, to protect their rights, plaintiffs can submit an application to the ECHR. However, this opinion raises doubts, given the substantial number of affected parties, which can reach hundreds of thousands of people whose appeals to the ECHR will block the work of this judicial body. Also, even if a positive decision is made on the complaint of the affected person, it will be impossible to execute it on the territory of a foreign debtor state since, according to the decision of the Constitutional Court of the Russian Federation adopted

in 2015, the decisions of the ECHR are not subject to execution on the territory of this country (Ministry of Justice of Ukraine, 2015), if they contradict the Constitution, and considering the exclusion of the Russian Federation from the Council of Europe on 16.03.2022 and the intention to denounce the convention (Russia will not comply with the ruling of the European Court..., 2022), consideration of new cases in the ECHR will be completely impossible.

Under such conditions, the complexity of implementing decisions of the ECHR adopted based on the results of consideration of applications of persons affected by armed aggression against Ukraine will not differ from the complexity of implementing similar decisions of national courts of Ukraine. Therefore, the procedure for implementing this category of decisions, regardless of which body they were issued by, is not defined by law. In addition, in some decisions, the courts, at the request of the plaintiffs, apply interim measures and determine potential sources of repayment of debts on claims of Ukrainian citizens who suffered losses during the armed conflict.

Execution of decisions on the Russian Federation in Ukraine can be conducted by one of the following bodies: 1) the Department of Enforcement of Decisions of the Department of State Executive Service (DSES) of the Ministry of Justice, which already conducts enforcement of consolidated enforcement proceedings on the recovery of funds and which takes a number of measures, in particular on the identification and foreclosure of property; 2) a separate SES body, formed for these purposes as part of the DSES of the Ministry of Justice, endowed with exclusive competence to ensure the enforcement of decisions on a foreign state and which should include the most experienced performers.

The implementation of such decisions should be conducted at the expense of the property of the aggressor state in Ukraine, subject to the adoption by the Verkhovna Rada of Ukraine of a legislative act on the immunity of a foreign state, which will establish appropriate exceptions. Additionally, regulatory legal acts should define the procedure for enforcement of decisions against a foreign state. Such a procedure should establish the specifics of opening enforcement proceedings, identifying the property (assets) of a foreign debtor state and foreclosing on them, and the procedure for informing such a debtor at each stage of performing enforcement actions. This option is the easiest to implement through its integration into the existing mechanisms and procedures for the enforcement of decisions in Ukraine, but it contains warnings and risks.

The legislation regulates the procedure for recognising and granting permission for the enforcement of court decisions taken on the territory of Ukraine in relation to labour, family, and civil cases (Law of Ukraine No. 4901-VI…, 2012; Law of Ukraine No. 4901-VI…, 2016). However, considering the separate status of the defendant in decisions on compensation for damage caused by the armed aggression of a foreign country as a special subject of legal relations, different from individuals and legal entities, the conditions of accessibility for the application of this option of solving the problem can be considered if: 1) the property of a foreign state located in Ukraine is not enough to meet the requirements for decisions of national and international arbitration courts; 2) the legislation of a foreign state, on the territory of which assets are achievable for recovery, allows recognising the decisions of Ukrainian courts and implement measures for their enforcement. Summarising the analysed information, three potential classes of Russian assets can be identified, each of which should be treated differently:

- Private assets of those who committed a crime, financed terrorism, war, tried to evade sanctions, etc. According to the established legal approach at the national and international levels, such assets can be confiscated as a result of the commission of a crime as a punishment for this crime, which does not violate the norms of national or international law.
- Private assets of individuals close to the Russian regime. Confiscation of such assets only because of the alleged connection of a person (or organisation) with the aggressor state may violate national and/or international law. Therefore, it is advisable to freeze assets as a priority as a sanction, followed by a penalty in the form of confiscation of such assets.
- Russian sovereign assets. The approaches to sovereign immunity that currently exist in international law and the national legislation of individual states significantly limit the possibility of alienation of such assets. However, Ukraine is conducting intensive negotiation work at the interstate level to achieve progress and changes in these approaches.

When foreclosing on the assets of the aggressor state, the measures taken should be conducted on the basis of the rule of law and be balanced, and the recovery should be proportional and necessary, for which it is necessary to avoid the following potential violations of international law: 1) violation of investment agreements on mutual protection of investments for the protection of the latter; 2) violation of the Convention on the right to a fair trial, the right to property, private life, and home (European Convention..., 1950); 3) violation of customary international law, including the right to due process and a fair trial; 4) violation of the national legislation of the relevant foreign state.

The doctrine of sovereign jurisdictional immunity, which originates in customary international law, like other doctrines of international law, tends to change. The time has come to change the established custom in accordance with modern needs and current challenges facing democratic societies. Armed aggression against Ukraine cannot be interpreted as an activity of a sovereign nature, and therefore, it should not be subject to sovereign immunity in the category of cases on compensation for material damage or moral damage caused by armed aggression and occupation of a part of the territory. Thus, a state may not be allowed to commit the crime of aggression (thereby causing substantial damage to another state) and then attempt to protect its own assets from recovery as compensation for that damage by referring to the doctrine of sovereign jurisdictional immunity.

The realisation of the right of persons affected by armed aggression to appeal to the court, including the execution of a court decision as an integral element of access to justice, should not directly depend on the actions of the aggressor state, which is already not interested in achieving the goals and objectives of justice, but also thanks to the tool for granting consent to the administration of justice in relation to persons who have suffered damage caused by it, will have an unlimited opportunity to hinder the implementation of justice. Therefore, the very idea of obtaining the consent of the aggressor country to bring it to civil liability for property and/or moral damage caused to persons is unacceptable.

Therewith, the application of enforcement measures against a foreign aggressor state and legal entities and individuals associated with it should not exclude bringing such

a state and related persons to responsibility defined by international law and law, including special non-contractual ones. Therefore, considering the advanced trends in the development of international law and compliance with modern standards of social development, the most rational is the use of functional (limited) immunity as a model of legal regulation of this procedure.

Conclusions

Thus, summing up all the above, it is noted that, despite the existence of a number of legal positions of the ECHR in relation to the restoration of violated rights of persons in cases of debt collection from foreign countries, there is no effective mechanism for the enforcement of decisions in cases of compensation for damage caused as a result of armed conflict. Despite the widespread practice of submitting applications to the ECHR by persons against foreign countries, there is a problem of implementing the decisions taken by these countries. It is proved that it is unacceptable to apply the doctrine of sovereign immunity to the aggressor state as a justification for its violations of other doctrines of international law, in particular, such as customs and rules developed in the doctrine of international law on the conduct of war. Based on the analysis, the expediency of applying the model of functional or limited immunity, which is recognised and practised by the countries of Western Europe and North America, is argued, considering its practicality and compliance with high standards of the rule of law, the development of civil society, and considering trends in the development of international law. The aggressor state may not enjoy judicial immunity in enforcement proceedings for compensation for material and/or moral damage caused by its armed aggression. Therefore, the analysed practice of the ECHR can only be a prerequisite, a basis for the formation of relevant legal norms and law enforcement practice in Ukraine. The following legal models of execution of court decisions on compensation for damage caused by armed aggression of a foreign country are proposed. Such categories of enforcement proceedings should apply to either the Ministry of Justice's Department of Enforcement of Decisions in the order of consolidated enforcement proceedings or a separate specially formed SES body within the Ministry of Justice's Department of Enforcement. The object of foreclosure is the property of the aggressor state that is located on the territory of Ukraine (in particular: private assets of subjects of committing crimes – financing terrorism, war, attempts to evade sanctions, etc. as punishment for such crimes; private assets of persons close to the regime, however, so that the confiscation of these assets, considering the alleged connection of such subjects with the aggressor state, does not violate the norms of national and/or international law, it is necessary to first freeze these assets as sanctions with their subsequent confiscation), subject to the adoption of rules on exceptions to the rules on state immunity.

The results of the study described above can be used as the basis for future research on resolving controversial issues regarding the doctrine of state immunity as a subject of private and public international law and creating an effective mechanism for restoring violated human rights by harm caused by a foreign state as a result of armed conflict.

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Conflict of interest

None.

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Виконання рішень національних судів у справах про компенсацію шкоди, завданої внаслідок збройних конфліктів

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Анотація. Актуальність дослідження зумовлено відсутністю належного правового регулювання у сфері правового визначення порядку виконання судового рішення, за яким боржником виступає іноземна держава (агресор або окупант). Мета дослідження полягає в тому, щоб розробити механізм ефективного захисту прав українських стягувачів у справах про компенсацію шкоди державною-агресором або державою-агресором крізь призму належного виконання судових рішень у цих категоріях справ. У процесі дослідження застосовано низку загальнонаукових і галузевих методів, зокрема, метод аналізу та синтезу, а також системний, структурно-функціональний, діалектичний, історичний та герменевтичний методи. У статті проаналізовано правові позиції Європейського суду з прав людини стосовно права на звернення до суду у справах про стягнення боргу з іноземної держави як компенсації завданої заявникам – фізичним особам матеріальної та/або моральної шкоди. Досліджено практику національних судів України у справах за позовами фізичних осіб – громадян України до іноземної держави щодо компенсації матеріальної та (або) моральної шкоди, яка заподіяна вторгненням на територію України. Встановлено, що державі не може бути дозволено використовувати доктрину суверенного імунітету як щит для порушень нею інших доктрин міжнародного права, таких як міжнародного права щодо збройних конфліктів. Обґрунтовано доцільність застосування моделі функціонального (обмеженого) імунітету, яка набуває все більшого поширення та визнання передових країн світу з огляду на її практичність і відповідність сучасним вимогам розвитку суспільства та провідних тенденцій розвитку міжнародного права. Результати дослідження може бути використано для подальших наукових розробок окресленої проблематики, у нормотворчому процесі як при укладенні міжнародних договорів, так і в національному законотворенні, а також у правозастосовному процесі під час здійснення судочинства

Ключові слова: примусове виконання рішень судів; виконавче провадження; виконавець; виконуваність рішень; стягувач; боржник-іноземна держава; захист прав особи

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Current situation and transformation ways of housing policy in Ukraine

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Abstract. Housing policy is one of the urgent scientific and practical areas within legal research because it has not been updated since 1995, and actual housing relations have already received a new meaning. The purpose of the study is to identify the features of the current situation and propose transformational approaches to housing policy. The study employs formal legal, statistical, and general scientific research methods, considering dialectical, synergistic, and axiological approaches. The main issue with Ukrainian housing policy is the absence of a modern concept guiding housing development and legal regulation. It is observed that the intensification of efforts to develop and adopt the principles of future state housing policy was conducted at the level of state authorities' activities. Based on the analysis of regulations in housing relations, it was determined that housing policy is part of a broader state policy – social policy. This is because it aims to meet the social interest – the need for housing. It is emphasised that housing policy is divided into national and regional housing policies. Particular attention is paid to the difficulty of restoring the destroyed housing facilities stock as a result of the war; it is suggested that a system of action be implemented to overcome the complicated situation in the housing sector. The study supports the idea of highlighting a specific area of modern housing policy in Ukraine, namely, ensuring the housing rights of vulnerable individuals, particularly those who have

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been forcibly evicted due to war. The study identifies specific areas of housing policy, including: the restoration of housing facilities (such as constructing new housing, compensating for destroyed housing, and conducting repair and construction works); devising an investment strategy for the housing sector; safeguarding citizens' housing rights; and revising housing legislation. These recommendations can be considered by the legislative and executive authorities when formulating a strategy and policy for the reconstruction of the housing stock of the state

Keywords: public administration; normative and legal regulation of housing relations; housing restoration; housing; housing facilities stock; right to housing; fundamental human rights

Introduction

Identifying the areas of housing policy in the current context of Ukrainian statehood is a pressing issue in research and law-making. It is due to the lack of a contemporary state housing policy outlined in relevant regulatory frameworks, ongoing military operations within Ukrainian borders, an increasing number of internally displaced persons, and efforts to restore and modernise the housing stock. There is an urgent need to substantiate the concept of housing policy areas at the level of legal science. This underscores the importance of developing and implementing housing policy for the current stage of state formation in Ukraine.

It is notable that scholarly investigation into housing policy spans multiple disciplines, including economics, law, sociology, and technical sciences. This complex methodological approach is necessitated by the intricate nature of housing policy as a scientific concept, requiring consideration of interdisciplinary relationships in the studies on the subject. According to O.D. Kashchuk (2022), the concept of housing policy in the field of public administration has not been comprehensively explored, indicating a certain fragmentation in its treatment. Indeed, a unified methodological approach to housing policy has yet to be established, so it is advisable to fully consider all specific features of housing policy at the state administration level. I.I. Khozhylo (2023) highlights the ongoing renewal of the legal mechanisms of management and administration in certain areas of housing policy implementation, which are the responsibility of various central executive authorities and local self-government bodies. In particular, partial amendments to the legal regulation of housing policy relations have been made in response to the introduction of martial law and the need to identify and restore damaged and destroyed housing. V.V. Kochyn (2023) underscores that housing is a commodity that falls under the "decent living conditions" category, necessitating a balance in the regulation of property and housing relations. This highlights the importance of updating housing policy to balance social and economic interests in the housing sector. Furthermore, there is an urgent need to find effective and efficient mechanisms to ensure the realisation of the right to housing, especially as a housing crisis looms in Ukraine. Currently, Ukraine has the opportunity to develop a more effective and equitable housing policy, drawing on the best practices of European countries and established standards where the right to social housing is a critical component (Haran & Stepanova, 2023).

According to R. Oke and F.A.P. Liu (2023), housing policy has a direct relationship with the real estate market, which is related to a wide range of economic aspects. This perspective is supported by the recognition that the real estate market is just one component of housing policy. P. Malpass and A. Murie (1999) conducted a seminal study on housing policy, highlighting its interconnectedness with the broader imperative of addressing housing needs comprehensively. It is acknowledged that researchers approach housing policy from various scientific perspectives. Despite the multifaceted interpretations of housing policy within state administration and legislative contexts, it is practical to define the essence and key areas of housing policy, particularly in terms of its legal regulation and state construction.

The purpose of the study is to determine the current state and potential transformations of housing policy in Ukraine. To achieve the stated purpose, the following objectives were established: to clarify the concept of housing policy, to identify specific features of the current Ukrainian housing policy, and to outline the areas of housing policy in modern socio-economic conditions.

Materials and methods

To address the objectives, a range of general scientific and specialised methods was applied. The dialectical method served as the primary approach, aiding in establishing the essence of the research problem, the various forms of housing policy, and the role of housing policy within the broader framework of social policy. The axiological method highlighted the importance of sustainable housing policy for societal development, identifying key value categories in research and distinguishing values within the studied phenomenon. The synergistic method helped form systematic areas of housing policy. Methods of analysis and synthesis were utilised to explore the relationship between the actions of housing authorities and the development and adoption of housing policy. Statistical analysis was employed to examine data related to the current state of housing policy in Ukraine. Furthermore, the formal and logical method was used to identify the specificities within the regulatory and legal framework governing housing policy. These methods collectively contributed to a more profound understanding of the intricacies surrounding the development and regulation of housing policy.

Various materials, such as regulations of Ukraine, statistical data, and literature sources, were utilised in exploring the current situation and transformation methods of housing policy in Ukraine. For example, Cedos analytical data on the housing policy situation in the first year of full-scale war (Bobrova, 2023; Verbytskyi *et al.*, 2023) and Kyiv School of Economy data on the destruction of housing facilities stock (More than 8% of the housing…, 2023) were analysed. The following regulations were analysed: the Law of Ukraine "On the Principles of Domestic and Foreign Policy" (2010); the Law of Ukraine "On the principles of state regional policy" (2015); Laws of Ukraine No. 1602-III (2000), No. 156-VIII (2015), and No. 2923-IX (2023); the Law of Ukraine "On State Target-oriented Programs" (2004); the Concept of state housing policy (1995); and Resolutions of the Cabinet of Ministers of Ukraine No. 326 (2022), No. 380 (2022), and No. 221-r (2023).

Methodological materials regarding the procedure for submitting an information report on damaged and destroyed immovable property as a result of hostilities, terrorist acts, and sabotage caused by the military aggression of the Russian Federation against Ukraine were also examined.

Furthermore, the experience of local self-government agencies with regard to housing policy, focusing on activities in the war zone, such as the Economic and Social Program of economical and social development of Kharkiv City (2023), developed by Kharkiv City Council was analysed. Legislative proposals, including the Draft Laws: On Amendments to paragraph 3 of the Chapter II "Final and Transitional Provisions" of the Law of Ukraine "On the De-Sovietization of the Legislation of Ukraine" regarding housing policy (2023) and "On Basic Principles of State Housing Policy" (2013), were also considered. These legislative references serve as essential foundations for understanding and evaluating the implementation of housing policy.

Results

Housing policy concept in law and research. Housing policy within modern state formation is a comprehensive legal and socio-economic phenomenon. Notably, a key issue in the housing policy in Ukraine is the fragmentation of housing legislation and the management of the housing sector. Various ministries and central executive authorities are implementing their housing programmes that are not coordinated with each other. This lack of coordination reduces their effectiveness and increases administrative costs (Verbytskyi *et al.*, 2023). This situation requires addressing by establishing a common understanding of housing policy and defining its contemporary areas.

Housing policy is a vital component of the socio-economic policy to ensure human rights to a decent living environment with high-quality and comfortable living conditions (Housing policy, 2009). It always represents a programme and its practical implementation aimed at ensuring the stable and economically efficient turnover of the housing stock, within which the housing needs of citizens determined by the state and relevant international acts are met (Komnatniy, 2021). The problematic issue of housing policy encompasses pertinent many topics, theoretically and in applied public administration (Khozhylo, 2023).

It is important to note that one of the main principles of domestic policy in the social sphere, outlined in paragraph 9, P. 1 of Art. 8 of the Law of Ukraine "On the Principles of Domestic and Foreign Policy" (2010), is the provision of affordable housing for citizens, especially for the needy population, those with limited physical capabilities, orphans and children deprived of parental care, youth, public sector employees, and multi-member families. This principle also inc ludes strengthening government initiatives to stimulate social housing construction and revitalizing affordable mortgage lending. Housing policy can also fall under regional policy as outlined in the Law of Ukraine "On the Basics of State Regional Policy" (2015). For instance, regional housing policy is mentioned explicitly in the Program of Economic and Social Development of Kharkiv City for 2023 (Program of Economic and Social..., 2023).

Housing policy is founded on both the housing economy and the right to social security to meet housing needs. The housing economy encompasses many sectors, including housing construction, production of building materials, land use, general and territorial planning, architecture, metallurgy, transport, road construction, and energy supply (Kravchenko, 2019). As a result, a system of complex legal relations arises around this, which requires a separate systemic legal regulation. Therefore, housing policy is a comprehensive, interdisciplinary formation.

Based on the above, it can be argued that housing policy is a component of social policy and is implemented through relevant programmes. According to the Law of Ukraine "On State Special Programs" (2004), state target-oriented programmes fall into two main categories: 1) national programmes aimed at fostering economic, scientific and technical, social, national, and cultural development, as well as environmental protection; 2) other programmes aimed at addressing specific challenges concerning the advancement of the economy and society, the development of particular sectors of the economy and administrative-territorial units requiring state support. Therefore, housing policy is part of the social policy of the state, which is aimed at creating conditions for providing housing for the country's population, managing the housing facilities stock, and modernising the housing infrastructure. It is divided into national housing policy and regional housing policy. The interaction between public and private entities is evident in housing policy in a broad sense, as the housing sector involves various entities, including individuals, legal entities, and entities of state administration.

Current housing policy situation in Ukraine. The Ukrainian state has recently encountered significant challenges in its housing policy. Thus, according to various estimates, losses in the housing facilities stock of Ukraine during 2022 ranged from 135 to 817 thousand destroyed or damaged buildings. According to the International Organization for Migration, the number of forcibly displaced persons in Ukraine as of January 2023 amounted to 5.4 million people. This has led to a shift in housing needs, requiring temporary crisis accommodation (Bobrova, 2023). Moreover, unresolved issues persist, such as housing availability, adequacy, and the transition to energy-saving technologies in the housing and communal economy. To address these issues, the Plan of Priority Actions of the Government for 2023, approved by the Ruling of the Cabinet of Ministers of Ukraine dated March 14, 2023, No. 221-r (2023), includes the development and submission by the Ministry of Development of Communities, Territories and Infrastructure of Ukraine of a Draft Law on settling housing policy issues (Ruling of the Cabinet of Ministers of Ukraine, 2023). Furthermore, a meeting of the Committee on Youth and Sports of the Verkhovna Rada of Ukraine was held on November 20, 2023, where the conceptual areas of reforming the state housing policy, developed by the working team of the Ministry of Community Development, Territories and Infrastructure of Ukraine in cooperation with international organisations, were presented (Materials of the Committee meeting…, 2023).

To assess the current state of housing policy in Ukraine, it is necessary to examine both the present characteristics of the object of housing policy (housing and legal relations in the housing sector) and the state of public management of the housing sector. To accomplish this, an analysis of the housing facilities stock in Ukraine and the activities of state authorities regarding the formation of housing policy should be conducted.

The total residential area in Ukraine as of the beginning of 2021 was 1,014.8 million square metres, showing

a slight increase of only 2.2% or 21.5 million square meters compared to 2019. The total volume of living space was much smaller. It was 636.8 million square metres as of January 1, 2021, and the increase in the living space of residential premises in the country for 2019-2021 was only 1.84%, or 11.5 million square metres (Dubyna & Zabashtanskyi, 2023). Statistical indicators of the housing facilities stock in 2022-2023 are not considered due to the country being in a state of war, resulting in the systematic destruction of the housing facilities stock. According to the data of the Kharkiv City Council (Kharkiv being one of the cities affected by the war in Ukraine), approximately 30.0% of housing facilities in the city were damaged due to shelling. Over 4,000 residential buildings were destroyed, almost 500 buildings deemed irreparable. This situation has left over 150,000 Kharkiv residents homeless. The housing policy in Kharkiv in 2023 focused on implementing projects for the city's reconstruction and restoration, constructing housing to replace destroyed buildings, including with the assistance of national and international investors, completing housing construction projects started before the hostilities, creating conditions for the realization of civil rights to housing, improving living conditions through participation in city housing programs, and implementing measures to develop a social housing stock (Program of economical and social…, 2023). In Kyiv, 454 residential buildings were destroyed and damaged during the full-scale invasion, resulting in losses of 734 million dollars. According to estimates from the Kyiv School of Economics, as of May 2023, 18,600 residential buildings were affected in Ukraine, with 13,200 being damaged and 5.4 thousand completely destroyed. In total, more than 163,000 housing facilities stock objects were damaged as of June 2023. The total area of damaged or destroyed objects is 87 million square metres, which is 8.6% of the total area (More than 8% of the housing…, 2023).

The current situation of the housing stock and the solvency of the majority of the population in Ukraine indicates the need to reorient towards a strategy of reconstruction and renewal of the existing housing stock, and the need to strengthen the role of the state in this process (Kucherenko, 2019). The housing stock of Ukraine includes both new buildings and those that are destroyed, dilapidated, or in an emergency state. Specifically, there is a concerning trend in several regions of Ukraine regarding the volume of dilapidated housing facilities. For example, the volume of dilapidated housing during 2010-2020 was significantly increased in Vinnytska (by 20.2%), Kyivska (6.9%), Lvivska (22.82%), Poltavska (69.33%), Sumska (66.1 %), Kharkivska (26.43%), and Chernihivska (3.95%) regions. Similarly, there has been a rise in emergency housing stock in Donetska (127.5 thousand square metres) and Odeska (108.8 thousand square metres) regions (Dubyna & Zabashtanskyi, 2023).

Analysis of this data indicates an urgent need for a comprehensive set of measures to restore and support the housing facilities stock of Ukraine. One such measure could be the reconstruction of emergency and dilapidated housing, which can be implemented through regional housing policies. The difficulty of restoring the destroyed housing facilities stock as a result of the war is the fact that it is necessary to perform a set of actions: 1) to conduct an assessment of the destruction; 2) to identify the need for restoration (particularly for dwellings of cultural heritage significance) or demolition; 3) to conduct demining of objects and search for explosives in residential buildings; 4) to clear the debris; 5) to check the condition of the supporting structures; 6) to develop a restoration project; 7) to execute construction works.

The problem of state housing policy in Ukraine is that no regulation has been adopted since 1995 to determine the content and areas of housing policy. The current "Concept of the State Housing Policy" (1995) determined the main areas of realisation of the right of Ukrainian citizens to housing. It has not been updated since that time. Draft Law No. 10097 (2023) was registered in the Verkhovna Rada of Ukraine on September 28, 2023, proposing the development and submission by July 1, 2024, of the Draft Law of Ukraine "On Basic Principles of State Housing Policy" (2013). On November 20, 2023, the Committee on Youth and Sports of the Parliament of Ukraine heard a report from the working team of the Ministry of Community Development, Territories, and Infrastructure of Ukraine on the future development of state housing policy (Materials of the Committee meeting..., 2023). This indicates an increasing focus on developing and adopting state housing policy at the level of state authorities, which should serve as a comprehensive document for further development of the housing sector in Ukraine. Therefore, there is an urgent need for a scholarly discussion on housing policy areas within the modern conditions of state formation in Ukraine.

Determining the current areas of housing policy is crucial for restoring the housing facilities stock and modernising the housing infrastructure in modern socio-economic conditions. The level of housing needs provision is an indicator of ensuring human rights in the state, the development of the public administration system, and the legal regime in general. Article 4 of the Draft Law of Ukraine "On the Basic Principles of State Housing Policy" (2013) suggests that the priorities of state housing policy should include: 1) identifying the most vulnerable population groups in terms of priority in providing housing and introducing effective mechanisms to meet the housing needs of citizens who are on apartment registers in accordance with legislation, promoting the development of the rental housing market on a competitive basis; 2) clearly demarcating the spheres of responsibility of the state, territorial communities, and the private sector at the legislative level, developing, approving, and providing permanent and adequate financing for the implementation of state and regional housing programmes; 3) approaching national norms, rules, and standards of housing legislation to European recommendations. It should be noted that the project does not meet modern requirements for housing restoration. Besides, it is more correct and expedient to formulate the areas, not the priorities, of state housing policy. It has to be emphasised that the specified Draft Law offers to bring national norms, rules, and standards of housing legislation closer to European recommendations. Therefore, this formulation of the priorities of the state of Ukrainian housing policy is partially incorrect. Thus, there is a certain dispersion of standards in European housing legislation regarding the concept of housing as a result of the complex case law of the ECHR in the field of protecting housing rights. In addition, Ukraine needs to develop separate standards for housing rights due to the need to restore the housing facilities stock against the background of the war. In particular, it is relevant to consider the international experience of housing policy in terms of post-war recovery at the current stage of the development of state policy and society in Ukraine.

It should be emphasised that the rebuilding of housing facilities, improvement of communal services, and enhancement of medical and educational institutions will be among the priority tasks of post-war reconstruction. Furthermore, one should consider both positive and negative experiences that were formed in countries that experienced military conflicts during the state management of post-war reconstruction. For example, it has been historically confirmed that the overly bureaucratic process of assessing the damage caused and filing an application for assistance slows down significantly the process of restoring damaged housing (Gorin, 2023). One of the ways to solve housing policy problems, especially during the war, can also be the reconstruction of residential buildings (Kashchuk, 2022).

Appropriate legal regulations have been actively implemented regarding compensatory relations in the field of reimbursement for damaged property as a result of hostilities in Ukraine since the first months of the war. A number of regulations have been adopted (Resolution of the Cabinet of Ministers of Ukraine No. 326…, 2022; Resolution of the Cabinet of Ministers of Ukraine No. 380…, 2022; Law of Ukraine No. 2923-IX…, 2023) since February 2022. The analysis of the cited regulations allows stating that Ukraine has developed a successful notification system regarding destroyed and damaged property as a result of hostilities, which avoids complex bureaucratic procedures as much as possible. This statement is due to the fact that a person can choose the form of damage notification, in particular, the written or electronic one. Besides, an individual can send an information message to the Register of Damaged and Destroyed Property by means of the Diia portal, through the administrator of the National Register of Citizens of Ukraine or a notary (regardless of the place of residence or stay of an individual) (Procedure for submitting an information …, n.d.). In total, more than 40,000 applications have been submitted to the Register of Damaged and Destroyed Property (E-Restoration: How to get compensation…, 2023). However, this area of housing policy for Ukraine should remain a priority during the war and post-war reconstruction period. In addition, the indicated above demonstrates that Ukraine is actively creating registers of destroyed or damaged property, which is the basis for receiving reparations from the Russian Federation in regard to its aggression against Ukraine.

The restoration and reconstruction of housing, including properties damaged or destroyed by war, along with emergency and dilapidated housing, necessitate financial and technical assistance. This support is crucial for the sustainable operation of the construction sector and the provision of adequate financing. It requires the accumulation of the state funds and the involvement of international donors. To regulate the economic structure and to intensify economic activity in the housing construction sector of Ukraine, the state needs to develop and implement an effective investment strategy. Implementation of investment strategy areas is closely correlated with political, social, humanitarian, and other strategies of the state (Yepifanova, 2023). Therefore, one of the areas of housing policy should be the development of an investment strategy in the housing sector of the economy.

An essential aspect of contemporary housing policy should focus on safeguarding housing rights, particularly for vulnerable individuals, such as those forcibly displaced due to conflict. An important factor that will contribute to the provision of housing for citizens is the introduction of preferential lending. Thus, IDPs are entitled to a preferential mortgage loan if their housing is located in communities affected by ongoing hostilities or temporary occupation (Rogovyi, 2022). However, paying the initial mortgage payments is extremely challenging due to the poverty of many resettled individuals who have lost their homes. Therefore, when formulating state housing policy, it is important to designate areas for the construction of state-owned housing stock for long-term lease or lease with the option to purchase. This approach can be drawn from the experiences of EU countries. For instance, the government of North Rhine-Westphalia, Germany, allocated €20 million from public funds on May 9, 2022, for subsidies to prepare and acquire housing for short-term use. Private owners or housing companies could use this funding to refurbish unused apartments or vacant properties for Ukrainian refugees. Moreover, €200 million was provided in the form of low-interest loans with enhanced repayment discounts through the public housing finance programme of North Rhine-Westphalia for the creation of new housing. The aim of the government of North Rhine-Westphalia is to repurpose unused living spaces for Ukrainians. Financing is designed to be as flexible as possible without neglecting necessary standards such as affordability and energy efficiency. This initiative guarantees stable rent of the housing stock in the future (Circular of the Ministry of Homeland, Municipal Affairs..., 2023).

Another important aspect of housing policy should be the development of modern legal regulations for housing relations. The lack of a clear, structured, and systematic legal framework for state housing policy is a significant factor hindering the development of the housing sector in Ukraine. Therefore, the main and primary steps to creating the appropriate regulatory basis should be the undeviating observance of the principles of rulemaking by state authorities (Myroshnychenko, 2021). For instance, the State Program for Providing Youth with Housing for 2013-2023, approved by Resolution of the Cabinet of Ministers of Ukraine No. 967 (2012) and amended by Resolution of the Cabinet of Ministers of Ukraine No. 1360 (2020) and the Energy Modernization Support Program for multi-apartment buildings “Enerhodim” (Energy Efficiency Fund, 2020) were adopted without a conceptual foundation in housing policy. It is necessary to adopt a housing policy concept and consolidate existing regulations into a single codified document to address the dispersion and lack of systematic legal regulation of housing relations.

Thus, resolving current issues in the housing sector requires the establishment of a modern state housing policy. This includes increasing the population’s solvency, developing and implementing financial mechanisms for mortgage lending, maintaining social housing in the state-owned sector, and adopting both European and American mortgage lending schemes. Moreover, it involves the high-quality reconstruction of existing outdated housing and transferring funds from the secondary housing market to the primary one (Kovalevska, 2013). It is evident that addressing existing housing sector issues requires a systematic policy approach in the socio-economic sphere. Furthermore, this consideration is crucial in the formation and reform of state authorities. Establishing a consolidated agency within the housing sector, with authority over the adoption and implementation of housing policy, would be beneficial.

It is worth paying attention to the fact that it is appropriate to determine the forecasts for the implementation of housing policy and the methodological basis for monitoring the results of its implementation while developing housing policy. Article 5 of the Law of Ukraine "On State Forecasting and Elaboration of Ukraine's Economic and Social Development Programs" (2000) highlights the significance of conducting a comprehensive analysis of various factors, including demographic trends, natural and industrial resource utilisation, scientific and technological advancements, labour force capacity, domestic economic competitiveness, and current levels of economic and social development. It also stresses the necessity of considering the impact of external political, economic, and other influences, forecasting future trends in these areas. This approach provides the basis for formulating forecasting and programme documents for economic and social development. Therefore, the adoption of the housing policy concept should be a well-thought-out document aimed at achieving specific results, particularly in terms of regulatory and legal support and the activities of state authorities (both central and local government bodies). The results obtained must be assessed for compliance with the programme expectations and analysed according to the defined methodology.

In summary, the following areas of housing policy can be identified: restoration of the housing facilities stock (including the construction of new housing, compensation for destroyed housing, and implementation of repair and construction works); development of an investment strategy in the housing sector; ensuring citizens' housing rights; and updating housing legislation, among others.

Discussion

Identifying the state of housing policy and its developmental areas allows for the assertion that housing policy is a comprehensive concept. According to O.D. Kashchuk (2022), housing policy is a multifaceted phenomenon. Its implementation intersects with many aspects of social life; it is a component and strategic area of state policy; its development depends on the socio-economic situation in the country; it has constitutional value, which is determined at the national level. Naturally, housing policy cannot be defined without considering the socio-economic conditions of society and its needs. The impact of socio-economic conditions on housing policy is particularly evident during martial law times. Therefore, it can be argued that housing policy can be conceptualised through statistical socio-economic relations and their dynamic paradigm. This paradigm emerges when additional factors, such as war, disrupt the natural progression of socio-economic relations. This factor should be carefully considered in contemporary studies focusing on housing policy.

M. Habrel (2020) observes that the housing policy of the state (or region, territorial community) encompasses the general areas, principles, and methods of activity aimed at achieving specific objectives in this domain: improving housing conditions and relations, meeting the needs of residents, and harmonising them with the effective functioning of urban planning systems. This conceptualisation provides a broad definition of housing policy. Simultaneously, housing policy is an integral element of the state social policy, encompassing the actions of governmental authorities and local self-government bodies aimed at facilitating housing provision for the population, managing the housing stock, and modernising housing infrastructure. Conceptual principles of housing policy can be discerned in state and local programmes, as housing policy is subdivided into state and regional realms. It is appropriate to delineate the following areas of housing policy, which can be implemented at both national and regional levels: 1) enhancing normative and legal regulation of housing relations; 2) ensuring human housing rights, particularly through the creation of alternative means of acquiring housing rights and managing the housing stock; 3) providing financial and technical support to the housing sector (including developing the national construction industry and forming a market for accessible building materials); 4) developing and implementing an investment strategy in the housing sector; 5) modernising residential infrastructure; 6) enhancing state administration in the housing sector; 7) forecasting and monitoring housing policy.

P. Lis (2008) proposed a comprehensive definition of housing policy. The researcher characterises housing policy as a sectoral state policy that encompasses the activities of government and local authorities, involving state structures, political and public organisations, and private entities. This policy aims to create conditions for purchasing or renting housing and ensure housing stock availability. It is worth agreeing with the given provision. It is advisable to involve non-state structures in the formation and monitoring of housing policy, particularly public organisations. The work of the Cedos Analytical Center serves as a prominent example in Ukraine, conducting discussions and static research on housing policy. This experience should be further developed and considered in future housing policy initiatives.

The social component of housing policy is emphasised by J. Frątczak-Müller (2022). The researcher noted that the main objective of social housing policy is to prevent homelessness, forced eviction, and living in unsuitable housing. This conclusion points to the core point of housing policy. Overcoming homelessness is possible only with the systematic activity of state authorities, local self-government agencies, and social public organisations. The ongoing conflict in Ukraine is likely to exacerbate homelessness among both adults and children. Therefore, it is necessary to additionally emphasise that modern housing policy should address the social housing crisis, which has arisen due to the military conflict. Overcoming homelessness and preventing forced evictions are critical areas that must be addressed by housing policy.

According to N. Oliinyk (2010), the state housing policy aims to create conditions for the sustainable and efficient turnover of housing stock. This involves meeting citizens' housing needs, maintaining and developing construction quality standards, and generating positive economic development impacts across other sectors of the economy (Oliinyk, 2010). Indeed, housing policy intersects with various economic sectors, and its revitalisation could catalyse postwar economic recovery in Ukraine.

S.O. Komnatniy (2021) identifies two key components of housing policy: social, which focuses on ensuring citizens' right to housing, and economic, which involves developing the housing construction sector while considering the real needs and economic capacities of future housing users. C. Zhao and F. Liu (2023) also highlight the economic aspect of housing policy, particularly in relation to real estate market dynamics. This is logical, as the real estate market comprises interconnected submarkets, including the consumer market, financial asset market, development market, and land

market (Krasnevich *et al.*, 2023). Supporting the viewpoints of researchers, it is important to highlight the legal aspect of housing policy, which is a crucial component. Regulatory and legal provision of housing policy is a necessary component. The housing legislation of Ukraine should provide for the transition from the previous system of distribution of the state housing facilities stock to the system based on ensuring the conditions for restoring the housing facilities (Haliantych & Kochyn, 2022). Therefore, while the social and economic aspects form the basis of housing policy, its effective implementation relies on appropriate legal regulations. Legal provision of housing policy involves the activities of state authorities and local self-government agencies in the formation and implementation of state policy and the availability of legal instruments for the regulation of housing relations.

Summarising the above, housing policy is a comprehensive category with various interdisciplinary scientific relationships encompassing social, economic, and legal factors. Housing policy is a part of social policy. It is aimed at ensuring the realisation of the right to housing. Regarding hostilities, the Ukrainian housing policy should establish additional mechanisms for the social protection of housing rights, particularly vulnerable persons. One of the urgent areas in the field of housing policy is the development of its concept at the level of state authorities. There is also a need to systematise regulations in the housing sector.

Conclusions

The study on housing policy within the current state formation in Ukraine leads to several conclusions. It was established that housing policy is an integral part of the state social policy, aiming to provide housing to the population, manage housing stock, and modernise housing infrastructure. This policy is delineated into state and regional levels. Efforts to develop and adopt a comprehensive document on state housing policy, intended to serve as a foundational document for the future development of the housing sector of Ukraine, have been undertaken amid the current state formation in Ukraine.

The scientific value of this study is that housing policy is considered as a complex, interdisciplinary category. It was emphasised that housing policy constitutes an integral aspect of the state social policy. It includes the efforts of governmental authorities and local self-government agencies to facilitate access to housing for the population, administer housing facilities stock, and enhance housing infrastructure through modernisation initiatives. It aims to create an environment conducive to fulfilling the constitutional entitlement to housing, particularly regarding availability and adequacy. It was emphasised that housing policy, as a scientific and practical concept, should be determined while considering the static and dynamic state of socio-economic relations. The dynamics of these relations can be observed in Ukraine due to the impact of the war. Consequently, when formulating housing policy, it is imperative to consider the socio-economic imbalances that have emerged as a consequence of the imposition of martial law.

The practical importance of the obtained results is the determination of the principles of legal support for housing policy. It is necessary to create a consolidated agency at the level of central government authorities, which should be responsible for the development and implementation of housing policy. It is also essential to develop and adopt a modern concept of housing policy, which should include updated housing legislation. It is advisable to involve non-governmental organisations, particularly NGOs, in formulating and monitoring the housing policy. One of its aspects should be to ensure the housing rights of vulnerable categories of the population, including people who have been forcibly evicted as a result of the war. The need to determine a mechanism for monitoring the expected results of housing policy implementation within the framework of the housing policy principles was noted.

The main areas for further research in housing policy may relate to the identification of strategic elements and areas of housing policy and to the composition of its entities.

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Conflict of interest

None.

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Анотація. Житлова політика є одним із нагальних науково-практичних напрямів у правничих дослідженнях, оскільки концепція житлової політики не оновлювалась з 1995 р., а фактичні житлові відносини вже отримали новий зміст. Метою роботи є розкриття особливостей сучасного стану та трансформаційних шляхів житлової політики в Україні. У роботі використані формально-юридичний, статистичний та загальнонаукові методи дослідження в контексті діалектичного, синергічного, аксіологічного підходів. Наголошено, що проблемність української житлової політики полягає у відсутності сучасної концепції розвитку вектору житлово-правого регулювання. Водночас означено, що на рівні діяльності органів державної влади відбулась активізація щодо розробки та прийняття засад майбутньої державної житлової політики. На підставі аналізу нормативно-правових актів у сфері регулювання житлових відносин визначено, що житлова політика є частиною більш широкої державної політики – соціальної. Таке положення обумовлено тим, що вона спрямована на задоволення соціального інтересу – задоволення житлової потреби. Підкреслено, що житлова політика поділяється на загальнодержавну житлову політику та регіональну житлову політику. Приділено увагу складності відновлення зруйнованого житлового фонду, внаслідок війни, запропоновано здійснення системи дій щодо подолання складної ситуації у житловій сфері. Обґрунтовано доцільність виокремлення такого напряму сучасної житлової політики України як забезпечення житлових прав вразливих осіб, зокрема людей, які зазнали примусового виселення внаслідок війни. Запропоновані конкретні напрями житлової політики: відновлення житлового фонду (зокрема, будівництво нового житлового фонду, сплата компенсації за зруйноване житло, проведення ремонтних та будівельних робіт); розробка інвестиційної стратегії у житловій сфері; забезпечення житлових прав громадян; оновлення житлового законодавства тощо. Ці рекомендації можуть бути враховані органами законодавчої та виконавчої влади під час формування стратегії та політики реконструкції житлового фонду держави

Ключові слова: державне управління; нормативно-правове регулювання житлових відносин; відновлення житла; житло; житловий фонд; право на житло; фундаментальні права людини

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Theoretical foundations of hot spots policing and crime mapping features

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Abstract. The study is devoted to one of the ways to solve the problem of reducing the crime rate in the region due to the concentration of police forces and means in correctly defined places of criminal activity. The purpose of the study is to determine the content of the concept of police activity in places where criminal activity is concentrated in "hot spots" and examine the features of crime mapping. The key methods used are system and structural analysis, dogmatic analysis, synthesis method, modelling method, and structural-functional and formal-logical methods. It is determined that the problems of criminal activity, for the most part, are concentrated in a small number of places of an administrative-territorial unit, which continue to be dangerous for a long time in the absence of police intervention. It is proved that different types of "hot spots" require the development of individual police countermeasures, and the analysis of "hot spots" should be based on a logical and systematic approach and depends on understanding the theory of the origin of different types of analysed criminal offences and choosing the way to display the results. A reservation is made that arbitrary analysis by an analyst, or the use of only software algorithms is excluded because they can lead to a subjective perception of a "hot spot", which may not turn out to be an accumulation of criminal activity. It is proved that the analysis of "hot spots" , in addition to simply identifying places with high crime rates, is crucial for solving problems in these places and choosing the most effective police response measures. The practical value of the proposed study is to generalise and adapt international developments to improve the theoretical and practical foundations for improving the efficiency of criminal analysis units of the National Police of Ukraine in the field of visualisation of information about criminal activity, introducing international experience in crime mapping into the practical activities of criminal analysis units of the National Police of Ukraine

Keywords: criminal activity; crime mapping, visualisation, targeting, criminal situation, victimisation, operational services

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Introduction

The effectiveness of law enforcement agencies largely depends on the state of information support for law enforcement activities and the introduction of new approaches using modern achievements in the field of information technology. The implementation of the powers of the national police units to improve the criminal situation, as a necessary condition for the successful and safe functioning of Ukraine, is possible if the heads of police at various managerial levels have a clear understanding of the existing trends in the development of crime in the territory of their operational services, the so-called criminal activity in hot spots, and the features and problems of the functioning of the police units and services entrusted to them. Such an understanding of the criminal situation or territorial operational situation allows not only successfully identifying and stopping criminal activity but also to effectively implement organisational and administrative-managerial powers in the direction of preventing crime and ensuring public order and safety. Therefore, the search and development of ways to improve the effectiveness of law enforcement agencies in the fight against crime is a priority task of any country, including Ukraine. However, each period of police operation is characterised by rational approaches, the examination and implementation of which in the practice of the Ukrainian police can lead to positive changes, which in turn will be considered, albeit not a general but partial success, on the way to implementing the mission assigned to the National Police of Ukraine.

A substantial number of scientific and applied studies are devoted to the analysis of crime through the localisation of crime concentrations – the so-called "hot spots", that is, the activity of mapping the facts of detected crime. O. Buhera (2018) conducted an analysis of world experience and proposed ways to develop internet mapping of criminological information in Ukraine. Researcher M. Kolodiazhnyi (2019) investigated the content of crime mapping, identified prospects for further development of this tool for crime prevention, and concluded that mapping is a necessary condition for effective crime prevention and protection of citizens' rights. O. Manzhai & A. Potylchak (2020) conducted a review of tools, organisation, and tactics for mapping criminal manifestations, analysed strategies that are used for mapping to predict crime, established the specifics of mapping criminal manifestations, taking into account the specifics of criminal trends in Ukraine and the activities of national police units. I. Fedchak (2023) summarised and investigated conceptual and theoretical propositions regarding proactive law enforcement models. The researcher states that the model of proactive law enforcement based on data (Data-Driven Approaches to Crime and Traffic Safety / DDACTS) reviews the place as a source of information that is considered by law enforcement officers when making managerial decisions on the use of forces and means (resources) to organise and ensure a preventive function, stabilisation of a criminal situation or operational situation.

A. Braga *et al.* (2019) devoted their study to the possibility of police influence on crime in hot spots of small geographical areas and empirically established that police activity in hot spots generates statistically substantial small reductions in total crime and disorder in areas where the strategy is implemented. The researchers concluded that policing in hot spots generates crime-fighting benefits that extend to areas directly bordering target locations. C. Telep & J. Hibdon (2019) reasoned that analysing hot spots, not just their identification, is crucial for solving problems in these places and choosing the most effective countermeasures. Researchers identified problem-oriented approaches as a particularly effective type of police intervention in problem-solving.

The analysis of theoretical ideas on the effectiveness of police management (the sphere of police activity) allows concluding that a systematic approach is necessary to determine the relevant tasks of law enforcement reform. Consistency lies in the fact that all structural elements in the activities of the police are closely interrelated and interdependent. It would be wrong to translate international experience into the practice of reforming the activities of the National Police without a thorough examination of the feasibility and effectiveness of measures developed within the framework of various models of law enforcement activities. Any model of organising police activities primarily requires scientific research, and positive developments should be implemented considering the already established practice of the National Police.

The purpose of the paper is to determine the content of the concept of police activity in places where criminal activity is concentrated in "hot spots" and examine the features of crime mapping. The goal of the study is to identify theoretical mechanisms for maintaining the effectiveness of police work in places where criminal activity is concentrated and substantiate practical aspects of understanding the levels, types, and types of maps of "hot spots".

Materials and methods

For a more detailed investigation of issues related to the theoretical foundations of the concept of police activity in places of concentration of criminal activity "hot spots" and features of crime mapping, as well as the possibilities of their application in the activities of criminal analysis units of the National Police of Ukraine, the authors of the study applied such methods of scientific knowledge as the method of system and structural analysis, dogmatic method, structural-functional method, synthesis method, modelling method, formal-logical method. With the help of systematic and structural analysis, theoretical ideas on crime mapping are investigated, which are reduced to the main idea that on the basis of reliable maps of "hot spots" of crime, police leaders can effectively manage the limited resources of police units to ensure public order and public safety on the ground. These methods are used to identify factors that affect the criminal situation on the ground and circumstances that contribute to criminal behaviour.

The dogmatic method was used to establish the interdependence of a person's choice of a safe environment depending on the criminal situation, to establish the interdependence of the state of crime from police preventive measures, identify the features of mapping, justify the need to map only the facts of committing criminal offences for the purpose of detailed search and analysis of cause-and-effect relationships of their manifestation, which will serve as the basis for the development of measures for the prevention of criminal situations. The method of analysis was used to analyse the content of environmental criminology and theoretical mechanisms for maintaining the effectiveness of police work in "hot spots". The synthesis method was used to formulate reservations about the exclusion of the possibility of arbitrary analysis by an analyst or only the use of software

algorithms since both alone can lead to a subjective perception of a "hot spot", which may not turn out to be a cluster of criminal activity. The formal-logical method contributed to the formulation of conclusions that police activities in "hot spots" are an important strategy of police units. This method justified the need to individualise police countermeasures to specific types of "hot spots" and provisions to reduce criminal activity due to the concentration of police resources in reliably defined places of problematic criminal activity.

In the presented study, theoretical researchers, encyclopedic materials, materials of practical activities of international law enforcement agencies, and visualised examples of maps and histograms from information sites were used, in particular, the theoretical conclusions made in the article were illustrated with examples from such resources as the NYC Crime Map (n.d.), Zaxid.Net Project (n.d.), CrimeMapping.com (n.d.).

The study was conducted in five stages: development of the research protocol; collection, analysis, generalisation of international theoretical and practical experience in the field of crime mapping; familiarisation with studies in the field of visualisation of criminal activity and the practice of their application by the units of criminal analysis of the National Police; analysis and generalisation of the obtained data; adaptation of the obtained theoretical results for practical application by the units of criminal analysis of the National Police and formulation of theoretical conclusions for criminal analysts.

Results and discussion

The essence of the concept of police activity in hot spots. In the modern law enforcement sphere, proactive models of police activity were developed, which are successfully used by law enforcement agencies and have proven themselves positively, in particular, regarding mapping criminal manifestations. Hot spots are crime concentration zones. However, there is no single understanding of what a "hot spot" is. A "hot spot" refers to specific addresses, territories without reference to addresses, and a concentration of individuals and events that may be relevant to a number of related criminal offences. Also, "hot spots" include small areas where more facts of criminal behaviour or violations of public order are recorded, compared to other territorial units, even if there is no common offender (criminal).

In addition, "Insubstantial places where crimes occur so often that they can be predicted for at least one year" are considered to be hot spots (Kolodiazhnyi, 2018). Analysis units in "hot spots" have different sizes. A point can be either very small units of analysis, such as buildings or addresses, shops, street blocks or street segments, street intersections, or address clusters – multiple streets, an area in a city, etc. where there is an abnormal cluster of illegal behaviour. Although there is no generally accepted definition of the term "hot spot" of crime, it can nevertheless be argued that this is an area that has more than the average number of criminal events or areas where the risk of victimisation is higher than the average. Therefore, it can be assumed that there are so-called "cold spots", that is places (districts) with a lower-than-average number of criminal or other offences. This also suggests that some "hot spots" may be "hotter" than others, i.e. criminogenic above average.

The concept of Hot Spots Policing is a local approach to law enforcement in which traditional policing strategies, such as increasing the police presence, are implemented in areas where crime is disproportionately higher than in other areas within the jurisdiction (in "hot spots"). The results of available research on this issue show that police response to "hot spots", whether specific or combining a group of addresses, street segments, or blocks, effectively reduces crime rates. However, there are studies in which the sustainability of crime reduction is limited by the fact that the results are mostly short-term (Braga & Weisburd, 2012). However, when policing hot spots is combined with deeper problem solving (i.e., not only identifying hot spots but also understanding why they are "hot"), such a strategy can also be effective in the long run.

The main idea of the proactive concept of law enforcement in hot spots is that prepared maps of crime hot spots can most effectively guide the actions of managers and line police officers if the preparation of these maps is based on experience, knowledge, and verified reliable information (Eck *et al.*, 2005). In general, Hot Spot Policing is an important strategy for improving security and reducing crime in the area of responsibility. Its implementation is based on detailed data analysis and specialised measures to achieve positive results. Although the results of applying the concept are mostly short-term, however, if law enforcement officers carefully and responsibly investigate the root causes of problems in specific locations (i.e., not only identifying "hot spots" but also understanding why they are "hot"), such a strategy can be effective in the long term (Braga & Weisburd, 2012).

For the purpose of high-quality and timely crime prevention, bodies and divisions of the National Police should have objective information that would allow them to consider crime on time and territory, examine the relationship between the causes and consequences of negative impact on society, predict their further development, etc. Not only a clear organisation of accounting and reporting in police units but also appropriate visualisation of such information can ensure the use of a cartographic method of research and knowledge of reality. Therefore, the problem of mapping individual crimes or groups of them on the territory of a street, city, or region gains scientific and practical importance (Korystin *et al.*, 2019).

Mapping (visualisation) of places of manifestations of crime is a means of targeting, which is associated with the definition of the object of preventive influence, which is mainly reduced to a certain physical space, in which various criminal offences are often committed. Targeting using crime mapping contributes to the purposefulness of preventive measures and increases the effectiveness of police activities. With its use, various prevention concepts are being implemented, for example, the Hot Spots model currently used in the United States (Kolodiazhnyi, 2019).

Scientific research proves that it is necessary to map the facts of committing criminal offences to search in detail and analyse the cause-and-effect relationships of their manifestation. Next, measures should be developed to prevent criminogenic situations, such as the elimination of unemployment to reduce the risk of criminological situations (Peresadko & Orlov, 2015). As a way to visualise crime topography, crime mapping can be used to test the effectiveness of spatial prevention measures, situational prevention, or broken window theory. Knowledge by local authorities and the police of the state of public utilities, the degree of arrangement of the territory and comparison of such data with the

crime rate will contribute, firstly, to clarifying the area that requires strengthening preventive measures and secondly, to checking the effectiveness of such measures in areas where they are already being implemented (Korystin *et al.*, 2019).

Defining the criminogenic situation, it should be highlighted in two terms – in a broad and narrow sense. In a broad sense, a criminogenic situation is a set of circumstances that characterise the level of crime in the region, the sphere of life, the economy, etc., and a complex of interrelated factors and phenomena of an economic, social, ethical, and psychological nature (alcoholism, drug addiction, and other phenomena related to crime). A criminal situation can be assessed as stable (satisfactory), difficult, or very difficult (Legal encyclopedia, 2001).

Considering the above, it can be noted that in a narrow sense, the concept of a "criminogenic situation" should be understood as a system of interacting objective circumstances that encourage the emergence of a specific manifestation of illegal behaviour. Depending on the impact on the behaviour of the criminal, the criminal situation may provoke the commission of a criminal offence or contribute to criminal behaviour. The first may be social, material, psychological, and other life circumstances, offensive or illegal behaviour of the victim in relation to the guilty person (offender, criminal), immoral, antisocial influence of adults on the behaviour of a minor, etc. Circumstances that contribute to criminal behaviour include miscalculations in the financial and economic or other activities of an enterprise or an entire industry, unsatisfactory state of control over inventory items, lack of signalling and surveillance equipment at storage facilities, etc. A criminal situation can spread over a substantial territory or concentrate locally (in a limited space), be long-term or short-term, and affect the interests of the population or a specific group of people.

The state of the criminal situation in a particular territory affects the choice of place of residence, kindergarten, school, leisure facilities, etc. of a person (family), and this decision is made depending on the level of security of the environment in the chosen area. No one wants their child, wife, parents, or themselves to become a victim of illegal activities. A community that has lived for a long time in an area that it considers its own does not always want to accept strangers and, therefore, treats them cautiously and with suspicion, while in other places, such people are welcomed. The public is aware that crime is unevenly distributed in the territories of administrative divisions. Surely, people may be wrong about the risks in specific territories, but most of them are aware that the risk of becoming a victim of violence in different places is varying.

Being aware of the criminal situation on the territory, in specific places, with criminal tendencies, the psychology of criminal behaviour, a general understanding is formed regarding the organisation of police work in the field of ensuring security and public order. Therefore, organisational and managerial decisions on how to allocate the limited human, material, and technical resources of national police units should be based on where the requirements for the police's active offensive actions are most desirable and where they are least necessary.

Theoretical mechanisms for maintaining the effectiveness of police work in "hot spots". The effectiveness of police work in "hot spots" in preventing criminal offences is supported by two key theoretical mechanisms: deterrence and reducing the possibility of crime. Deterrence theory assumes that crime can be prevented if the offender is aware that the costs of committing the crime outweigh the benefits. The work of law enforcement agencies in places where criminal activity is concentrated in "hot spots" is also substantially influenced by three complementary theories of the possibilities of crime: rational choice, routine activities, and environmental criminology. Rational choice assumes that "criminals seek to benefit from criminal behaviour. This implies the need for decision-making and the choice of means. These processes are limited by time, the offender's abilities, and the availability of relevant information" (Cornish & Clarke, 1987).

The theory mentioned above is often combined with the theory of routine (daily) activities to explain criminal behaviour during the commission of a criminal offence. The theory of everyday activity states that a criminal act occurs when a likely perpetrator approaches a suitable target (such as a victim or property) in the absence of a capable guardian in space and time (Cohen & Felson, 1979). Rational offenders face criminal opportunities when they go about their daily business and make decisions about whether to commit illegal activities. It is assumed that if the victim and the offender are prevented from combining in space and time by effectively manipulating situations and conditions that create criminal opportunities, in such circumstances, the police can positively influence crime trends.

Environmental criminology examines the distribution and interaction of goals, criminals, and opportunities in time and space. Understanding the characteristics of places that attract criminal behaviour is important because these characteristics create opportunities that rational criminals face in their daily activities (Brantingham, 1991). The main contribution of environmental criminology is its call to change the centre of analysis from individuals to specific locations. In the mentioned theory, the attributes (characteristics) of a place are considered as key to explaining episodes of criminal events. For example, a poorly lit section of a street with an abandoned building located near a transport highway is an ideal place to sell narcotic drugs. The lack of proper lighting, the abundance of hiding places around the abandoned property, the constant flow of potential customers near entertainment venues, and the lack of informal social control (so-called protective possession) in this place create an attractive opportunity for drug traffickers. In many such cases, the police spend a lot of time and effort detaining drug traffickers, without substantially affecting the level of drug trafficking. Compelling criminal opportunities in this place attract both sellers and buyers who support criminal activity. If the police want to be more effective in eliminating the sales channel, this suggests that they should focus on the specifics of the place where drug trafficking is concentrated in that particular location (Braga, 2019).

On the practical side, the police's law enforcement activities in "hot spots" cover a number of police responses that share a common focus of resources in places with a high concentration of crime. There is no single universal way to exercise police powers in "hot spots". Approaches to the work when choosing methods of intervention can vary quite a lot depending on a whole range of factors. For example, local police strategies in "hot spots" for solving crime problems can be either simple – increasing the time spent by patrol policemen in "hot spots", or complex – for example, a three-stage approach (identifying and analysing problems,

developing individual responses, and supporting success (results) in the fight against crime).

It can be clarified that the timely allocation of available police resources to those territorial and administrative units where criminal offences are most expected contributes to achieving high results in crime prevention. The appeal of focusing on the limited resources of police units in a small number of areas with high crime activity should be based on the belief that the share of crime in the city will decrease by neutralising criminal activity in certain "hot spots". For Ukraine, this practice will be effective for a general reduction in the crime rate and a promising reduction in the share of criminal offences against the life and health of a person, property, public safety and order, in the sphere of trafficking in narcotic drugs and psychotropic substances.

The main problem in applying the concept of police activity in "hot spots" is that crime will move to other locations in response to the police's attention to places with a high crime rate (spatial displacement of crime), thus devaluing any achievements in the fight against crime. However, researchers identified strong evidence of spatial displacement in only one study, and even in that case, the volume of displacement was far less than the main benefit of the intervention for the purpose of crime prevention (Ratcliffe *et al.*, 2011). Thus, it is established that crime does not tend to completely change the places of manifestation of "hot spots" in the adjacent territories. The result of police interventions in "hot spots" is to reduce the number of manifestations of crime in the established "hot spots" of criminal activity. Moving criminal activity is not inevitable, partially because "hot spots" tend to have certain terrain features that make them attractive targets for criminal activity, and these same features may not exist in nearby areas or spaces. Such features can include abandoned unfinished buildings and structures, improperly lit and sparsely populated areas, crowded entertainment venues that sell alcoholic beverages, etc. (Weisburd & Telep, 2014).

Notably, the study by Braga (2012) affirms the potential benefits of focusing law enforcement efforts on crime prevention at crime-concentration sites (in high-crime geographical areas), and police strategies and tactics focused on these geographical areas are commonly referred to as a model or concept of police activity in "hot spots" or a model or concept of police activity at a specific location. The paper of the author confirms that there is often a substantial concentration of crimes in small places or "hot spots", which give rise to half of all criminal events. The authors argue that many crime problems can be more effectively reduced if police officers focus on such deviant locations.

Indeed, the appeal of focusing limited resources on a small number of active crime sites is simple. If it is possible to prevent crime in these "hot spots", then the total number of crimes, evidently, can be reduced. This focus of activity on a specific location or locality correlates with traditional ideas about the work of the police and crime prevention in general, in which the efforts of the police are concentrated primarily on people. N. Lishchuk (2020) notes that the success of preventing criminal offences in the field of domestic violence depends on the timeliness and completeness of their detection and ensuring the inevitability of punishment for criminals. When considering the criminological characteristics of various types of criminal manifestations, the state, structure and dynamics of criminal actions, criminological characteristics of the criminal's personality, and the reasons and conditions (determinants) under which a particular criminal behaviour was implemented are most often considered (Talakh, 2021)

The revolutionary development of internet technologies, in particular, geographic information systems (GIS), opens up new opportunities for using crime maps to support crime prevention. For example, in the United States, resources based on GIS technologies were created that provide free access to data on criminal offences committed (their type, place of commission, date, and time). These are maps of the criminological situation that are constantly updated and available to the whole world (Peresadko & Orlov, 2015). Examples of such sites where the method of drawing icons on interactive maps provides criminogenic information with the ability to freely scale and select factors for analysis are resources CrimeMapping.com (n.d.), Community Crime Map. (n.d.).

US police officers use geographic information systems that allow them not only to get acquainted with the topography of crime at the national level but also summarise such information at the level of individual administrative divisions, for example, NY Crime Map. The NY Police Department visualises crime in three ways: by the criminogenicity of districts (districts of New York are depicted from white to brown); by the localisation of crime or individual criminal offences – the territory of the city is indicated by circles that mark the places of criminal encroachments; by the degree of criminogenicity – sections of the city, residential areas, and streets will be indicated by shades of red), and the topography of crime can be analysed according to the NY Crime Map for a period of no more than two years (Kolodiazhnyi, 2019).

Analysis is an important aspect of correctly identifying "hot spots", as many researchers established that law enforcement officers do not accurately identify "hot spots" or regularly disagree on what "hot spots" are in their areas of responsibility. These resources are constantly updated, which allows tracking up-to-date information regarding the spatiotemporal trend of the criminological situation.

There is strong evidence that police activities can have a substantial impact on crime and misdemeanour if officers take appropriate preventive measures specifically for specific locations as elements of the crime triangle "hot spots". Responses vary from one intervention to another but usually involve some combination of increased police presence, greater community involvement in law enforcement, and addressing the underlying crime issues through situational crime prevention measures. Initiatives in "hot spots" that use a problem-oriented structure seem particularly effective. There is also strong evidence that police actions in "hot spots" do not displace crime in neighbouring areas or at other times of the day. In general, carefully developed policing in "hot spots" is an effective and efficient proactive model of law enforcement (Telep & Hibdon, 2019).

In the author's dissertation, V. Santos (2013), through a reliable quasi-experimental examination, determined that responding to micro-temporal "hot spots" (i.e. hot spots that "flare up" in the short term) was effective in reducing the number of burglaries and vehicle thefts. In this study, criminal analysis played a clear and important role in the fact that over the course of 5 years, two criminal analysts who worked for the police identified micro-time "hot spots" to which response measures were directed. Although the study did not specifically address the role of criminal analysis, it is

a prime example of how the police systematically use criminal analysis in everyday life to reduce crime.

Surely, in their activities, police officers never completely ignore geography. Geographical features of administrative divisions are considered when allocating police resources and are crucial in how the police respond to calls and how they patrol the service area. However, Hot Spots Policing involves focusing police work on smaller geographical units.

Theoretical ideas regarding the levels, types, and types of Hot Spots maps and their limitations. Interest in policing in "hot spots" is partly due to the changes and innovations in law enforcement that have taken place over the past three decades and the emergence of theoretical ideas in the field of proactive law enforcement activities that confirm the importance of "place" in understanding the state and trends of crime to use police interventions for the purpose of conducting preventive activities. J. Eck (2005) stated that the distribution of crime varies within the neighbourhood and is unevenly distributed between districts. However, with the advent of powerful computer equipment and information technologies capable of performing complex spatial analysis, analysts of criminal analysis units are able to identify and track spatial concentrations of criminal offences.

In the field of crime mapping, "hot spots" can range in size from "points" to "regions". Although practical approaches to the content of the concept of "hot spot" have something in common – the division of places into places of concentration of crime or offences, and places with a much lower level of crime or offences, however, they differ in the area of coverage of the "hot spot" (Gonzales *et al.*, 2005). The factors that cause a particular "hot spot" are different from the factors that cause a "hot spot" on a street, block, or city. Therefore, the actions and measures applied by the police unit and other interested actors regarding the place of manifestation of a criminogenic hot spot will differ from the actions and measures necessary to stabilise the criminogenic situation of a "hot spot" in similar territories. These approaches differ in two criteria: the level of analysis and the size of the geographical area of crime or violations of public order. Using the example of drug sales, it can be understood that police measures to neutralise places of sale in the city will differ substantially from measures to eliminate drug supply channels to this city. Notably, determining the appropriate level of analysis is crucial to understanding the problem and determining what measures and actions should be taken or applied.

Types of "hot spots" include "hot spots" of places of repetition of criminal activity, "hot spots" of victimisation, and "hot spots" of streets. The main form of "hot spot" is the place where criminal activity is concentrated. As mentioned, a place can be a specific address, a section of the street, a shop, a house, or any other small place, and most of them can see the person standing near its centre. Places usually have one "manager" or owner (a person who has authority over this place and controls its use) and perform a specific function – accommodation, recreation, training, trade, production, etc. Crime is often concentrated in multiple locations (areas with high crime rates) (Community Policing Services, 2014). Hot spots are often concentrated in certain locations that border on places where there are few or no criminal offences. They are best represented pointwise, they have zero dimension.

Maps for displaying places of repetition of criminal activity have a number of elements and functions. When searching for a "hot spot", point maps outperform other forms of mapping. The goal is to identify isolated locations with high crime rates, which can be done in several ways. Graded points (the size of the point is proportional to the number of crimes on the spot). This method allows displaying repeated and non-repeated places on the same map and comparing repeated places by the number of criminal offences. Points also allow finding the concentration of "hot spots". Graduated points can obscure neighbouring objects (for example, a large point can overlap the nearest smaller points), this technique is best used on large-scale maps (Fig. 1).

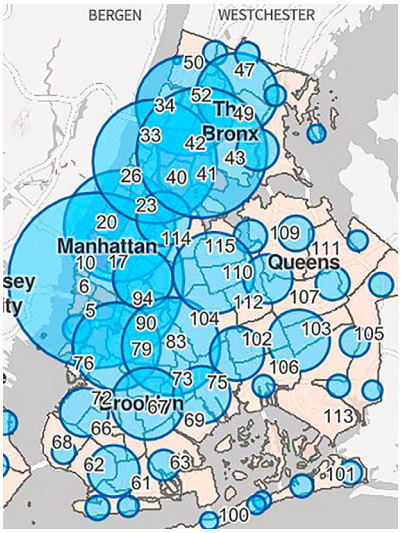

Figure 1. Hot spots graded by the number of crimes
Source: NYC Crime Map (n.d.)

The other two approaches are useful in small-scale maps. For example, a yellow dot can indicate a place with one crime, a light orange dot can indicate places with two crimes, and darker dots can indicate places with three crimes (Fig. 2). Another way to map criminal offences is to identify the most "hot" addresses. For example, identifying the 10% of addresses that are most affected by illegal behaviour may be useful to the police. Such addresses are plotted on the map using dots to indicate "hot spots". This method has two absolute advantages. First, the map is clearer because it has less clutter. Secondly, such maps are useful for clearly defining police goals. However, such maps do not consider information about other places less affected by criminal manifestations. This lack of information can be overcome by creating additional maps that reflect all the places or by colouring the available data using a colour gradient so that the target "hot" addresses have a clear colour.

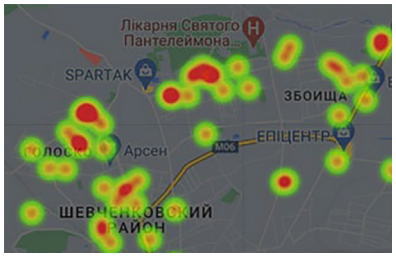

Figure 2. Hot spots graded by the number of crimes using colour
Source: Zaxid.Net Project (n.d.)

The next type of "hot spot" is the victimisation hot spot. Repeated victimisation is a recurrent criminal manifestation committed by the same person, regardless of the place where they were committed. Repeated victimisation is often confused with places where crimes are repeated. There may be cases when crimes can be committed against several different victims at a particular scene. Admittedly, it is possible to have both repeated victimisation and repeated crime scenes. For example, a person can visit an entertainment venue where a certain number of cases of illegal actions will be committed against them. However, if repeated victimisation extends to many places (as would happen in the case of repeated illegal behaviour against a person in different entertainment establishments (there is no repetition of the same institution twice), this will not be displayed on the map as a "hot spot" (zero dimension). Repeated victimisation can be displayed as lines (one dimension) if victims are constantly attacked using the same paths (alley, underpass, etc.), or as a polygon (two dimensions) if victims are repeatedly identified in the same areas. Re-victimisation is reflected to identify patterns with vulnerable groups of the population – potential victims of illegal activities in the same places.

Repeated crime scenes with different victims and repeated victimisation with different locations have different causes. Repeated crime scenes (with different victims) may be related to the behaviour of the "managers" of the place, but if victimisation occurs in different places, the "managers" of the place play a much smaller role. In such cases, the professions, travel patterns to work, or lifestyle of potential victims should be considered. Thus, most likely, the victims of the attack will be those people who are involved in deviant and illegal activities (for example, drug dealers, alcohol and drug addicts, prostitutes, people who conduct illegal currency transactions and own substantial amounts of cash, etc.). Some professions increase the likelihood of becoming a victim, which can increase re-victimisation. For example, police officers have a higher victimisation rate than many other professions. However, the circumstances that make a person an illegal target are sometimes difficult for the person to change.

The third type of "hot spots" are repeated "hot spots" of the streets. Repetitive streets are those paths or streets that are characterised by a high level of victimisation. Such places on maps are marked in the form of a line. Such linear "hot spots" are likely the result of the interaction of targets and offenders along certain paths. This may be due to the fact that criminals sometimes choose places to commit criminal offences or places to search for a target for a crime based on the state of the situation (insufficient lighting, distance from the nearest populated areas, neglected paths, places of movement of people that are densely covered with vegetation, etc.) (Fig. 3).

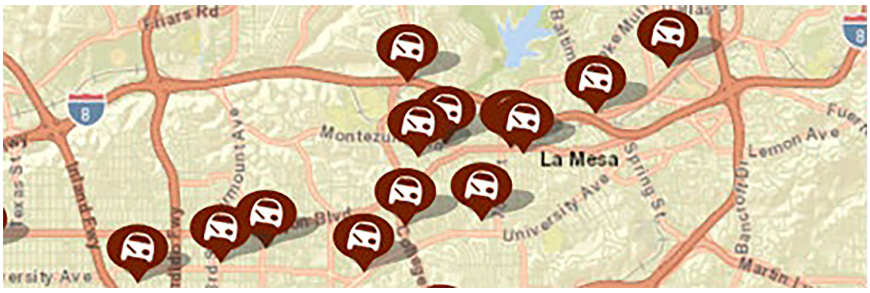

Figure 3. Concentration of hot spots along the street

Source: CrimeMapping.com (n.d.)

Offenders also find "targets" by doing their usual routine chores – going to and from work, shopping, etc. Potential targets that are not located along or near the routes used by offenders are unlikely to become victims, but those who are near such areas of movement of offenders have an increased risk of victimisation. Since the main directions of people's movement are concentrated in some places (including offenders), people who are in such places (along such traffic directions) face a higher risk of crime than people who are away from such main traffic directions. In addition, some types of "targets" are concentrated along central streets. Shops, fast food establishments, and service establishments are located in places where their customers are concentrated. Therefore, often criminal hotspots are actually hot lines. Some violations may focus on specific locations on individual streets, or form a set of events along a section of individual streets, forming lines. These lines are sections of streets. Thus, street segments, or points on street lines, also make up "hot spots" (CrimeMapping.com, n.d.).

Sometimes it can be difficult to distinguish "hot spots" from "hot streets". In fact, sometimes both "hot spots" and "hot streets" can be identified. As an example, robbers attack pedestrians on the street leading from bars to the parking lot. Robberies can form a line along the street. However, even on this hot street, where numerous robberies have taken place, there can be a "hot spot". Sometimes police officers, if it is difficult to determine the exact location of the commission of a criminal offence, enter inaccurate or approximate locations in their reports and information accounting systems. The analyst involved in crime mapping will have experience and knowledge about the offender, the victim, and the activities of the police to distinguish the exact model of a criminal offence from the information recorded in information arrays.

Usually, mapping programmes are available for street mapping, which simplifies the work of identifying "hot spots" or their clusters but does not create linear "hot spots" (hot lines). Such a map will show areas of concentration of illegal behaviour, but it is difficult to display the number of incidents in the lines. On the example of committing street thefts, it is cartographically presented in Figure 4. If a high level of accuracy is not particularly important, then such maps without displaying the number of events on the lines can also be useful.

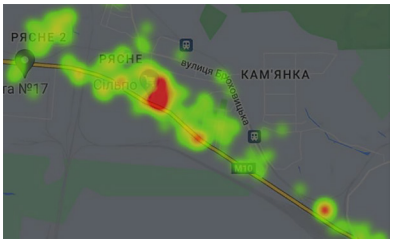

Figure 4. Creating a "hot line" from a large set of hot spots
Source: Zaxid.Net Project (n.d.)

As a rule, the concentration of victimisation can be shown using various types of maps, but there are cases when this cannot be done. Maps will be useful if the risk of victimisation is at least partially related to geography. A point map of the city with the designation of a gas station with two or more facts of robbery over the past 6 months shows criminal concentration. Dots represent concentration, for example, of robberies at a specific location. A point map for this type of victimisation makes some sense, but point maps do not reflect all forms of victimisation concentration. If objects (victims) are not stable in space (mobile), maps of hot streets or areas may be more useful. However, the use of maps is limited for some forms of victimisation analysis. If the concentration of potential victims is scattered throughout the territory (there is no territorial concentration), it is advisable for the analyst to choose other analytical methods for displaying the concentration. For example, the facts of taxi driver robberies scattered around the city – the corresponding signs of victims of robberies may be related to specific companies, the age of drivers, working hours, or many other factors that cannot be displayed on the map. For analysts, operatives, and investigators trying to investigate or prevent such types of criminal offences, histograms showing the characteristics of victims and other variables can be much more useful than mapping (Fig. 5).

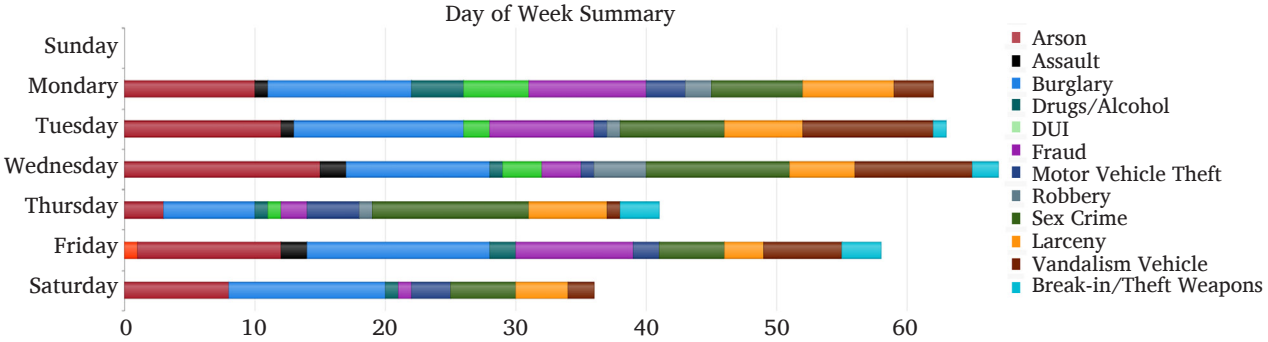

Figure 5. Crime histogram
Source: CrimeMapping.com (n.d.)

If the level of concentration of criminal activity and the shape of the image of the "hot spot" are not displayed qualitatively, then the map will be useless at best, which can lead to the preparation of ineffective countermeasures. Maps with images of "hot" streets or districts will not help determine the places where concentrations occur. Alternatively, a point map is too specific to display "hot" streets.

The consequences of using different types of maps are different. Point maps are simpler than street or district maps. Point maps allow the user to see the main picture of crime and determine whether it is appropriate to analyse crime at higher levels. However, maps of "hot" streets or districts often do not illustrate "hot" places, so the concentration of places may remain hidden. This suggests that crime mapping should start from the lowest level to the highest levels so as not to ignore low-level concentrations where effective measures can also be taken.

Conclusions

The causes of criminal activity are largely concentrated in a small number of local locations, which in police practice are called "hot spots". The latter remain criminally active for a long time if they are not properly responded to. The concentration of police resources in these areas will reduce criminal activity, which will lead to an improvement in the operational situation in the region as a whole. Analysis of criminal trends in such locations is crucial for selecting the most effective police response measures. Depending on the types of "hot spots", individual police countermeasures are developed to neutralise criminal activity. For analysts of the National Police's criminal analysis units, who are just mastering crime mapping methodologies, this means that the visual display of the crime pattern should correspond not only to the type of "hot spot" but also to a set of possible highly effective police response measures. Mapping only the "hot spot" will not be informative for police units since the map shows the area's scale. This directs the attention of police officers in large areas where law enforcement efforts are not necessary to stabilise the situation and spreads out police resources away from places where they are needed. Focusing on points in cases where the problem is widespread at the level of a particular area draws attention to too limited territory and involves too limited opposition, which can ultimately lead to a lack of a positive result.

The study offers a theoretical basis for methodological work for analysts of criminal analysis units to determine the location of "hot spots", which consists in the need to use statistical tools in combination with a human understanding of cause-and-effect relationships to provide an analysis of a reasonable basis for determining the actual location of a local concentration of criminal activity. With the skills, competencies, and appropriate tools, analysts will be able to correctly position information about criminal activity in a geographical context. For the correct understanding of the results of analytical activities, a human interpretation of events and trends is necessary, and a special role in this

is assigned to professional experience and knowledge of the features of the operational service area and the population contingent located in the analysed area. Conducting statistical and spatial analysis by analysts will contribute to a better understanding of the causes and places of increased criminal activity, which will allow other units and services of the National Police to respond in a timely manner to the level of the criminal situation, choosing the most effective and efficient forces and means, considering the resources at their disposal.

Further research in this direction, therefore, can be aimed at developing a methodology for developing Hot Spots Policing skills for National Police officers.

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Conflict of interest

None.

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Теоретичні основи hot spots policing та особливості картографування злочинності

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Анотація. Стаття присвячена одному із способів вирішення проблеми зниження рівня злочинності в регіоні зарахунок концентрації поліцейських сил та засобів у правильно визначених місцях кримінальної активності. Метою наукової праці є визначення змісту концепції діяльності поліції у місцях концентрації кримінальної активності “гарячих точках” та дослідження особливостей картографування злочинності. Ключовими методами наукової розвідки стали методи системного та структурного аналізу, догматичний метод, метод синтезу, метод моделювання, структурно-функціональний та формально-логічний методи. Було встановлено, що проблеми кримінальної активності, здебільшого. зосереджені в невеликій кількості місць адміністративно-територіальної одиниці, які продовжують бути небезпечними тривалий час при відсутності поліцейського втручання. Було доведено, що різні види “гарячих точок” потребують розроблення індивідуальних поліцейських контрзаходів, а проведення аналізу “гарячих точок” повинно відбуватись на основі логічного та системного підходу і залежить від розуміння теорії про походження різних типів аналізованих кримінальних правопорушень та обрання способу відображення результатів. Зроблено застереження, що довільне проведення аналізу аналітиком чи лише використання алгоритмів програмного забезпечення виключаються, адже можуть призвести до суб’єктивного сприйняття “гарячої точки”, яка може не виявитися скупченням кримінальної активності. Обґрунтовано, що аналіз “гарячих точок”, окрім простого визначення місць з високим рівнем злочинності, має вирішальне значення для вирішення проблем у цих місцях і вибору найбільш ефективних заходів поліцейського реагування. Практична цінність запропонованої наукової праці полягає у узагальненні і адаптації міжнародних напрацювань для удосконалення теоретичних і практичних засад підвищення ефективності роботи підрозділів кримінального аналізу Національної поліції України у сфері візуалізації відомостей про кримінальну активність, впровадження міжнародного досвіду картографування злочинності в практичну діяльність підрозділів кримінального аналізу Національної поліції України

Ключові слова: кримінальна активність; картографування злочинів; візуалізація; таргетінг; криміногенна ситуація; віктимізація; оперативне обслуговування

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Implementation of the Association Agreement with the EU by adapting Ukrainian legislation to EU law

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Abstract. Ukraine's integration into the European Union (EU) is one of the most important areas of the State's development, and therefore one of the conditions for rapprochement between Ukraine and the European Community, as well as a condition for accession to the EU, is the adaptation of Ukrainian domestic legislation to the EU acquis. The purpose of the study was to identify the peculiarities and problematic aspects of the implementation of EU law in national legislation. The research methods used were: historical, periodisation, formal legal and problem analysis methods. The study examined the peculiarities and problems of adaptation of Ukrainian legislation to EU law. The study found that the legislation is being adapted on the basis of the Association Agreement between Ukraine and the European Union, which includes the European Atomic Energy Community and its member states. The implementation process involves the transposition of EU norms into national legislation, while adaptation is the alignment of national law with EU legislation. The current legislation provides for three stages of adaptation of legislative norms, which aim to harmonize with EU law as much as possible. As implementation is a rule-making process, it involves a certain sequence of actions. In particular, it includes the establishment of the *acquis communautaire*, the creation of a list of legislative acts to be adopted and their preparation for adoption, monitoring of implementation and other sequential actions. In addition, the process of adaptation should

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be based on the principles of compliance with EU directives, the principle of voluntariness, clarity of terminology and completeness. Among the factors that are obstacles to implementation are the following: Russian aggression, institutional failure of state bodies, high level of corruption, numerous conflicts in legislation

Keywords: European standards; EU accession criteria; mechanisms of legislative approximation; European integration; rule of law; harmonization of law

Introduction

Today, European integration is a civilizational choice of the Ukrainian people, and is the main goal and priority of the development of Ukrainian statehood. This choice of the Ukrainian people was confirmed by the Revolution of Dignity and enshrined in the Constitution of Ukraine (1996). European integration is an opportunity for the country to develop in line with current global trends and improve the welfare of the Ukrainian people. It is obvious that Ukraine has come a long way in the process of approximation to European values and has moved to a completely new stage of relations with the European Union since the signing of the Association Agreement with the European Union (EU). Of course, Ukraine's ultimate goal is membership in the European Union, which is impossible without fulfilling specific conditions. The procedure for implementing European law into national legislation is specific and individual for each country and is accompanied by certain challenges and problems. Implementation means the introduction of European standards into national legislation, which should ensure the rule of law, social protection of the population, economic growth, high living standards, clean environment, quality food and other guarantees that ensure decent living conditions (Bunyk, 2023). Ukraine is no exception, especially when it comes to adapting national legislation to meet the needs of wartime. In the period of active reform of legislation and legal institutions in Ukraine, it is extremely important and relevant to study certain features and problems that stand in the way of European integration.

Both domestic and foreign scholars have studied the issue of implementation of EU legislation into the national law of the states wishing to obtain EU membership. Most scholars in their works consider the general criteria for EU accession. For example, such scholars as K. Lenaerts (2020), L. Dirk *et al.* (2022), and P. Akaliyski *et al.* (2022) have studied the general features of European integration, and are searching for ways of such integration that will be relevant and universal for all states. The papers analyse the EU policy areas that directly affect the integration process, examine theoretical approaches to the definition of European integration and their application to key areas of EU policy. The researchers conclude that the basis for the practical implementation of integration with the EU is the rule of law and its unconditional observance in all countries involved in the European integration process. The conclusions of these studies confirm that integration should be based on strong and democratic principles, in particular, the rule of law, including the principle of judicial independence.

Such scholars as T. Yıldız (2023), D. Fiott (2023), and O. Maltsev (2023) considered in their scientific works the issue of Ukraine's ability to implement European integration in the current conditions of martial law, and raised the issue of integration into the EU in the field of defence and security. The authors T.A. Börzel (2023) and E. Kiselyova (2023) examine the current preconditions that may become the basis for Ukraine's integration into the EU and analyse the prospects for its implementation in the context of current conditions. The authors conclude that the Russian aggression on the territory of Ukraine has significantly changed the process of European integration and adaptation of legislation, as now all further steps towards EU membership and all legislative changes must be made taking into account all the difficult circumstances and challenges associated with martial law. The authors of these studies believe that in the context of social, cultural, and economic prerequisites, Ukraine is already effectively integrated into the EU, but that a number of formal conditions need to be met to complete this process, which certainly include significant changes in national legislation.

Given that the conditions for implementing significant legal reforms in Ukraine are extremely dynamic and complex, there is not enough detail in scientific works on how to adapt Ukrainian legislation to EU law, nor is there enough research on the obstacles to reforming legal norms for the purpose of European integration (Trykhlib, 2019). Therefore, the purpose of this study is to identify the main ways and peculiarities of legislative adaptation and to identify obstacles to the implementation of EU law into national law. The objectives of this study are to distinguish between the concepts of implementation and adaptation, to identify the main legislative acts regulating the implementation process, to study the main stages and principles on the basis of which Ukrainian legislation is adapted to EU law, and to identify problematic aspects and obstacles to full harmonization, and to identify possible ways to eliminate such obstacles.

Materials and methods

In the course of the research, the authors studied the legal acts regulating the process of adaptation of Ukrainian legislation to EU law. Such legislative acts include, in particular, Law of Ukraine No. 1629-IV "On the State Programme for Adaptation of Ukrainian Legislation to the Legislation of the European Union" (2004), Resolution of the Verkhovna Rada of Ukraine No. 3360-XII "On the Main Directions of the Foreign Policy of Ukraine" (1993), Resolution of the Cabinet of Ministers of Ukraine No. 1365-2004-p "Some Issues of Adaptation of Ukrainian Legislation to the Legislation of the European Union" (2004), Resolution of the Cabinet of Ministers of Ukraine No. 1496-99-p "On the Concept of Adaptation of Ukrainian Legislation to the Legislation of the European Union" (1999), Decree of the President of Ukraine No. 278/2004 "On the Concept of Adaptation of the Civil Service Institution in Ukraine to the Standards of the European Union" (2004); Order of the Cabinet of Ministers of Ukraine No. 847-2014-p "On the Implementation of the Association Agreement between Ukraine, on the One Hand, and the European Union, the European Atomic Energy Community and their Member States, on the Other Hand" (2014), Resolution of the Verkhovna Rada of Ukraine No. 2298-IX "On the Appeal of the Verkhovna Rada of Ukraine to the Member States of the European

Union and its Institutions to Support the Granting of Candidate Status to Ukraine for Accession to the European Union" (2022).

Firstly, the study examined Ukraine's path to European integration and identified the legislative acts that were adopted to implement EU legal norms into the Ukrainian legal system. The next stage of the research was to identify the main criteria for Ukraine's accession to the EU and the place of legislative adaptation among these criteria, after which the main concepts related to implementation and adaptation were investigated, and these concepts were delineated for a more specific study of the issue in the future. The main methods used at this stage of the study were the historical method and the terminological method.

The next stage was to study the main ways and methods of implementing legal norms and to investigate the stages of adaptation of Ukrainian legislation under the current regulatory acts. An important stage of the study was to determine the sequence of adaptation of legal norms to EU law and to determine the levels of harmonization of the Ukrainian legal system with EU law. Having studied the provisions of the Association Agreement, the main principles of legislative transformation that must be followed to ensure effective implementation of EU law were identified. To implement this stage of the study, the periodisation method and the formal legal method were used.

At the final stage of the research, the problematic analysis method was used to study the problematic aspects that arose in the process of implementing the requirements of the EU-Ukraine Association Agreement. In addition, practical steps that have already been taken on the path to European integration were studied and recommendations for further steps for effective implementation and adaptation in the current environment were identified.

Results

The process of implementing European law into Ukrainian legislation is inevitable in the course of European integration. Since the declaration of independence, Ukraine has been actively reforming its legislation to harmonize it with EU norms and standards. The most important step towards European integration is its legislative regulation.

For the first time, Ukraine's development orientation towards the EU was enshrined in Resolution of the Verkhovna Rada of Ukraine No. 3360-XII "On the Main Directions of the Foreign Policy of Ukraine" (1993), which stated that Ukraine's main goal was to become a member of the European Communities, provided that this did not harm its national interests. An important milestone in the European integration process was the signing in 2014 of the Association Agreement between the European Union and its Member States, of the One Part, and Ukraine, of the Other Part (2014), which is already part of Ukrainian legislation. In addition, Resolution of the Verkhovna Rada of Ukraine No. 2298-IX (2022) stipulates that granting Ukraine this status and further integration into the EU will provide an opportunity to create a peaceful and secure environment in Europe. And on 23 June 2022, the European Council decided to grant Ukraine the status of an EU candidate, which opened up extremely great prospects for Ukraine and became a historic decision. In turn, this decision imposes certain obligations on the state, the most important of which are the adaptation of Ukrainian legislation to EU norms and standards, as well as the implementation of legal, political, socio-economic and institutional reforms aimed at creating and consolidating a democratic system in society.

The EU accession criteria for Central and Eastern European countries were defined back in 1993 and adopted by the European Council in Copenhagen, hence the name Copenhagen criteria. The purpose of this document is to create stable institutions that can guarantee the rule of law in the state and respect for human and civil rights; to create a functioning market economy and the ability to cope with the competing conditions of the European economy; and to fulfil the obligations arising from EU membership, which relate to political, economic, and social issues (Blockmans & Raik, 2022).

Thus, Ukraine's successful integration into the EU depends on the fulfilment of the main Copenhagen criteria:

1. Political criteria: stable institutions capable of ensuring the rule of law.

2. Economic criteria: an active market economy and its ability to function in a highly competitive European environment.

3. *Acquis* criteria: the ability to take on and fulfil political and economic obligations (Barnard & Peers, 2023).

Obviously, the main mechanism for implementing EU norms into national law is the adaptation of Ukrainian legal norms following European law. It is important to clarify the concepts of implementation and adaptation. Implementation in the context of the study should be understood as the process of transposing EU norms into national legislation. Adaptation, in turn: is the process of bringing into line with EU law; acts as one of the means of universalization of law; is a law-making process; should be carried out in accordance with the national interest. Thus, it can be noted that legislative adaptation is one of the possible ways of implementing EU law, as it does not involve direct transfer of specific legislative acts, but rather the creation of new legal acts in accordance with EU requirements and standards.

Acquis communautaire (acquis) is the EU legal system, which includes legislative acts and other legal documents adopted within the European Community. When it comes to the adaptation of Ukrainian legislation to European norms, most scholars note that adaptation means bringing legal norms into line with the acquis *communautaire* (Gafuri & Muftuler-Bac, 2021). Implementation involves the transfer of EU legal norms and their reflection in national legislation. In turn, adaptation is a procedure for bringing Ukrainian legislation into line with the norms of the *acquis communautaire*. Thus, implementation is the very process of harmonizing Ukrainian legal acts with EU legislation that has been ratified by Ukraine.

The following ways of implementing legislation are distinguished: incorporation, which means that the international norms that are implemented are reproduced in national legislation without changes; transformation means transforming the text of international legal acts in accordance with general legal norms; reception, which provides for the full textual repetition of international legal norms by the legislature in a national legal act (Schimmelfennig, 2021). A resolution of the Cabinet of Ministers of Ukraine of 16 August 1999 approved the Concept of Adaptation of Ukrainian Legislation to EU Legislation. According to this Concept, there are three stages of legislative approximation, as shown in Table 1.

Table 1. Stages of adaptation of national norms of Ukraine to EU law

The first stage	The second stage	The third stage
Developing a legal system in Ukraine that can ensure stability in society and the rule of law Harmonization of national law with international legal norms Development of legislation in the identified priority areas	Review of Ukrainian legislation in certain areas to ensure compliance Ensure legal regulation of the establishment and functioning of the free trade area between Ukraine and the EU	Implementation of an expanded programme of approximation of Ukrainian legislation to EU legislation to ensure Ukraine's full integration

Source: compiled by the authors based on Resolution of the Cabinet of Ministers of Ukraine No. 1496-99-p "On the Concept of Adaptation of Ukrainian Legislation to the Legislation of the European Union" (1999)

To date, the adaptation of legislation is carried out on the basis of the Association Agreement between the European Union and its Member States, of the One Part, and Ukraine, of the Other Part (2014). This international legal agreement has become one of the largest international legal acts since Ukraine's independence and is a significant step forward in the process of European integration. The agreement identifies several sectors in which reforms are needed to ensure approximation to European standards and norms, including energy, transport, environmental protection, consumer protection, industry, social and cultural development, and equal rights of citizens. The economic part of the agreement covers the largest part of the agreement, called the Deep and Comprehensive Free Trade Area, which offers Ukraine much wider access to EU markets. In addition, the agreement provides for a political dialogue between the parties on reforms related to the introduction of democratic institutions and political association with the EU.

Actions aimed at approximation of Ukrainian legislation to EU legislation are expressed in lawmaking, planning, coordination, and control, and are ensured by the authorized bodies. Adaptation is an integral part of the integration process and is a condition for the harmonization of Ukrainian legislation with international legal norms and standards. Since adaptation is a rule-making process, it includes several successive stages, each of which has to achieve certain goals (Hetmantsev *et al.*, 2022). The current legislation provides for a certain sequence of adaptation of Ukrainian legislation to EU legal norms:

- identification of those acts of the *acquis communautaire* that regulate relations in a particular area in which changes are required (for example, Directive 2004/48/EC of the European Parliament and of the Council "On the Enforcement of Intellectual Property Rights" (2004));
- translation of these acts into Ukrainian (regulated by the Resolution of the Cabinet of Ministers of Ukraine No. 451-2023-p "On Approval of the Procedure for Translating into Ukrainian Acts of the European Union's Acquis Communautaire and into English Acts of Ukrainian Legislation Related to the Fulfilment of Ukraine's Obligations in the Field of European Integration" (2023));
- conducting a comparative analysis of legal regulation of relations in a particular area in Ukraine and the EU;
- formulating recommendations for bringing Ukrainian legislation in line with the *acquis communautaire*;
- analysing the economic, social and political consequences of the recommendations;
- creating a list of draft laws to be adopted in the process of integration;
- preparation of draft laws of Ukraine and other regulatory acts included in the list and their adoption;
- monitoring the process of implementation of Ukrainian legislation.

Thus, the adaptation of national legislation to EU law is one of the priority areas of Ukraine's state policy in accordance with Law of Ukraine No. 1629-IV (2004). However, adaptation does not mean replacing the existing norms with the European ones, but rather bringing Ukrainian legislation in line with the EU norms. In order to regulate this process, Ukraine adopted a number of legal acts, such as Law of Ukraine No. 1629-IV (2004), Resolution of the Cabinet of Ministers of Ukraine No. 1365-2004-p (2004), Resolution of the Cabinet of Ministers of Ukraine No. 1496-99-p (1999), Decree of the President of Ukraine No. 278/2004 (2004), Order of the Cabinet of Ministers of Ukraine No. 847-2014-p (2014) and others. However, it is worth noting that no single legislative act has been adopted so far that would clearly regulate the process of implementation and adaptation.

In theory, there are three levels of harmonization of Ukrainian legislation with EU legislation. The first level is minimal adaptation (covering only certain areas of legal regulation that are a priority for establishing economic cooperation and are not related to EU membership). The second level is moderate adaptation, which is expressed through the implementation of systemic economic or political reforms and is associated with the creation of a free customs trade area. The third level is the maximum adaptation aimed at joining the EU, and therefore has the most systemic and deeper character (Gstöhl & Frommelt, 2023).

According to the Strategy of Sustainable Development until 2020, approved by Decree of the President of Ukraine No. 5/2015 "On the Strategy of Sustainable Development "Ukraine-2020" (2015), Ukraine receives an order of its transformations through the ratification of the Association Agreement. Fulfilment of the requirements set out in the Agreement will allow Ukraine to become a full member of the EU. Adaptation of legislation is one of the main conditions for transformation in Ukraine, which will become the basis for all further transformations.

Given the conditions set out in the Association Agreement, the main principles of harmonization of Ukrainian legislation with EU law should be highlighted. The first is the principle of compliance of Ukrainian legislation with EU legislation in the form of regulations and directives. In Ukraine, regulations do not have direct effect, unlike in EU member states, so such compliance requires the creation of special legislative acts or, conversely, the repeal of laws that contradict the Association Agreement and other EU legislation. The second principle is the principle of voluntary approximation. In addition to mandatory legal acts that need to be amended or adopted, the Ukrainian party may voluntarily implement

approximation to EU acts not specified in the Association Agreement. This principle is related to the fact that EU legislation is extremely dynamic and the list of legal acts requires constant changes. In addition, Ukraine may not ratify legal acts that are not mentioned in the Agreement or that have already expired, in view of its own interests. The third principle is consistency of terminology. EU legal acts always begin with a preamble and have specific terminology that is not used in Ukrainian legislation. This should be considered in the course of lawmaking. The fourth principle is the principle of completeness. When creating new legal norms, the authorized persons should take into account not only EU regulations or directives, but should also take into account case law (Wagner, 2022).

The Association Agreement provides for some procedural methods of transposition of EU norms into Ukrainian law. These include the possibility for Ukraine to participate in EU programmes in education, culture, and science. Thus, Ukraine can participate in certain EU-funded programmes, provided that Ukraine adheres to European principles and values (Skichko, 2023). The Resolution of the Cabinet of Ministers of Ukraine No. 700-2016-p "On Approval of the Procedure for Initiation, Preparation, and Implementation of Twinning Projects" (2016) made a significant contribution to launching the mechanism of adaptation of Ukrainian legislation to the EU. Twinning, a technical assistance project from the EU, involves the organization of cooperation between public authorities of an EU member state and the relevant public authorities of Ukraine, which are the beneficiaries of the project. The aim of the cooperation is to exchange experience between the participants and provide assistance in public administration and the adaptation of Ukrainian regulations to EU legislation. Twinning projects can be of two types: classic and light. Twinning Classic provides for a duration of up to 36 months and a budget of up to EUR 2 million. Light Twinning provides for a duration of up to 6 months and a budget of up to EUR 250 thousand. The countries that are partners in Twinning projects benefit mutually, as they receive an exchange of experience and knowledge based on equal communication between partners on a peer-to-peer basis. The result of such a project is the implementation of the best practices of public authorities in EU member states, achievement of a significant level of compliance of national legislation with EU norms and standards, development, and adoption of adapted legislation, which is a prerequisite for the implementation of agreements reached between partners (common internal market, joint agreements, and action plans) (Torres-Adán, 2021).

Despite all the established mechanisms for implementing the adaptation of Ukrainian legislation to EU legal norms, Ukraine faces many obstacles on the path to implementing European legislation. It is worth noting the main problems of approximating Ukraine's legal norms to the EU legal system, which include the absence in Ukraine of a single legal act that could fully regulate the implementation process, lack of stability and inconsistency of legal norms, significant discrepancies between national legal norms and EU regulatory legal acts, differences in personnel policies, and a gap in the historical and cultural development of legal systems (Petrović, 2022). Additionally, there is a significant level of corruption in the state sector in Ukraine, inadequate knowledge of European law, and a low level of language proficiency among those involved in adapting legal norms. There are a considerable number of uncertainties regarding the interpretation of the content of EU acts, according to which Ukrainian legislation should be adapted (Shevchuk *et al.*, 2022). Certain national legal regularities in adopting legal norms that do not exist in the EU are often disregarded, and not all legal aspects of EU regulatory legal acts, such as the legal technology of adopting the document, the reasons for adopting the legislative act, and the features of its implementation, are taken into account. This may result in incorrect interpretation of national legislation norms.

Government policy should be consistent with the EU's common democratic and economic values and ensure the proper formation of a deep and comprehensive free trade area (Barikova, 2024). Such achievements can only be made by building a competitive market economy and implementing international legal standards. In order to motivate Ukraine to achieve such long-term goals, the Association Agreement contains provisions on legislative approximation and so-called "conditionality clauses". These provisions provide for Ukraine's access to the EU's internal market subject to Ukraine's effective implementation of political, economic, and legal reforms (e.g., removal of obstacles to free competition, effective functioning of democratic institutions, implementation of market economy principles, elimination of corruption and the possibility of holding democratic elections). In addition, such "conditional reservations" imply constant monitoring of the reform process in Ukraine and the state leadership's commitment to democratic principles (Schimmelfennig *et al.*, 2023).

Despite the positive achievements in the process of adapting Ukraine's national legislation to EU legal norms and implementing the Association Agreement, there is a problem of defining the foundations and principles of European integration processes. There is no system for harmonizing Ukrainian legislation with the EU *acquis*. A certain solution to this problem may be the formation of a new state European integration policy (Law of Ukraine No. 1629-IV..., 2004), which will allow for more effective implementation of existing opportunities for cooperation and adaptation of Ukrainian legislation to the EU *acquis*. At the same time, Ukraine's national interests related to the protection of the economic sphere should not be overlooked.

The main shortcomings of the Association Among the difficulties encountered in the implementation of the Agreement are ineffective planning of legislative approximation measures, non-compliance or improper implementation of certain planned measures, slow development and adoption of regulations to ensure implementation of the relevant provisions, non-compliance with the principle of transparency in the implementation process, partial adaptation of legislation, lack of coherence and even contradictions in the content of adopted legal acts, as well as insufficient public information on the results of implementation. Overcoming these shortcomings requires consolidation of efforts of all authorized actors, a balanced but prompt state policy in this direction, which will ultimately contribute to its implementation in due time.

There are also a number of other factors on Ukraine's European integration path to the EU on the basis of the EU-Ukraine Association Agreement that only exacerbate the existing problems. Thus, the main factors that impede the timely and full implementation of the Agreement's objectives include: Russian aggression; insufficient institutional

capacity of public authorities; ineffective implementation of the judicial reform; significant level of corruption in government agencies and imperfect activities of anti-corruption bodies; prevalence of political slogans over the rule of law; and numerous conflicting provisions (Yara, 2024).

In this regard, the problems associated with the implementation of EU law can be divided into two groups: objective and subjective. The first group includes those circumstances that do not depend on Ukraine and its political will, namely Russian aggression. The second group includes those circumstances that can be influenced by specific measures, and their effectiveness depends on political will and political decisions.

The main ways to address such problematic aspects include adapting the mentality of civil society to the new realities that exist in Ukraine and Europe; developing legal norms by scholars that could harmoniously combine the best practices and achievements of the past years and that would contain all the features of democratic European law; and conducting constant and fruitful cooperation between Ukraine and the EU and its member states (Tatsiy, 2021). In addition, it is important to organize well-coordinated cooperation between all branches of government; develop new and amend existing legislation that should be aligned with EU law; develop a Ukrainian-European glossary that would contain all legal terminology; engage foreign experts and use EU technical assistance to adapt Ukrainian legislation.

Despite the fact that there are many obstacles to the implementation of EU legal norms, Ukraine has already implemented quite a few measures to adapt legislation in certain areas of legal relations, in particular those identified as priorities in the Partnership and Cooperation Agreement (for example, competition rules, trade, industrial and customs legislation, intellectual property, technical rules and standards, etc.) Thus, certain legislative acts aimed at improving the business environment and complying with EU conditions and principles have been prepared and adopted.

However, it is necessary to further improve the current mechanism of adaptation of Ukrainian legislation to EU legislation, to ensure proper professional training of specialists who directly implement the process of approximation of national legislation with EU legislation; in some areas of law, it is necessary to codify legislation to bring it into a more systematic and unified form, and to systematize legislation in areas requiring approximation and translated into Ukrainian, namely European rules, standards, and regulations.

Thus, the process of implementing European legislation through the adaptation of legal norms of Ukrainian legislation is complex, multilevel, and voluminous. The success of Ukraine's integration into the EU directly depends on how efficiently and thoroughly the harmonization of legislative norms is implemented. After all, if we talk about common values, economic and customs area, it becomes clear that the legal framework must clearly meet common goals and interests. Adaptation is the main direction of implementation, which should be carried out in accordance with EU principles and should ensure economic, cultural, social development, and Ukraine's approximation to the EU legal system. Legislative harmonization should not only be carried out by amending legal acts, but also refers to a wider range of norms, standards, and rules that aim to ensure the rule of law and to embed European values in Ukraine. It is clear that adaptation is necessary and inevitable and should be carried out in stages, taking into account the needs and interests of Ukraine. That is why, in order to fully regulate this process, it is necessary to adopt a single legislative act that would enshrine the Strategy for the adaptation of Ukrainian legislation to European norms in the current reality. It should also be concluded that despite certain difficulties in implementing EU law, Ukraine is confidently following the European integration path and implementing policies that clearly convey the aspirations of Ukrainian society to belong to the European community.

Discussion

The relevance and importance of the topic under study is confirmed by the fact that a significant number of leading scholars from around the world are engaged in studying this issue. Agreeing with the conclusions of foreign authors, this work focuses on the basic principles of lawmaking, which should be based primarily on the rule of law and other democratic principles. For example, the scientific work of K.L. Scheppele *et al.* (2020) is devoted to EU values. The authors emphasize how important it is for all EU member states to adhere to the rule of law and democratic principles, as these principles are the basis and backbone of the EU itself. The study, as well as S. Bulmer (2020), made certain conclusions that each EU member state has its own economic, geopolitical, and social characteristics, and therefore, the process of implementation and transformation of legal norms cannot be universal. Ukraine under martial law has its own significant peculiarities, which must be taken into account when taking further practical steps towards European integration.

This study reveals certain shortcomings and problematic aspects of the harmonization of legal norms between Ukraine and the EU. However, the new challenges and the struggle for European values that Ukraine is fighting for every day further emphasize the importance and necessity of Ukraine's membership in the EU. A. Sapir (2022) also examines the prospects of Ukraine's membership in the EU and draws a parallel with the countries of the Eastern Balkans. The author provides a comparative analysis of the process of accession of different countries to the EU, identifying different stages and periods. In addition, the author provides a legal analysis of Ukraine's capabilities to carry out the European integration procedure in the current conditions.

After reviewing the work of H. Lelieveldt and S. Princen (2023), who studied in detail the EU policy, the history of the EU, the basic principles on which the EU functions and accepts new members, this paper examines the general procedure of European integration. The paper attempts to understand the guiding principles on which the implementation of European norms should be based. In this study, the key point is that it is mandatory to comply with the fundamental principles when adapting legal norms, but the methods and procedure of such adaptation are chosen by each state independently. Again, this approach is related to the fact that it is impossible to create one effective mechanism for the implementation of European integration that is universal for all countries. A single mechanism would not be able to take into account the individual characteristics of each country. This opinion is based on the study of A. Zhelyazkova *et al.* (2024), who devoted their work to the study of a differentiated approach in EU integration policy.

Some conclusions in this study are based on the experience of other countries. For example, M.A.Y. Khan and

F.M. Burfat (2022) examined in their research the prospects of Turkey's accession to the EU and analysed the problems that may arise as a result of such membership. According to the authors, Turkey's accession to the EU is the most controversial, as it will cause some religious, cultural and geographical problems on the continent. This paper has had a significant impact on the research, as the case of Turkey is quite illustrative in terms of studying the EU's policy in ambiguous situations.

This paper raises topical issues and problems that are also inherent in Ukrainian society, so, taking into account the experience of the Balkan countries, some practical recommendations can also be made to be taken into account in further European integration. Such experience is analysed in the work of E. Malaj (2020), who in her scientific article considered the European integration of the Balkan countries, in the context of which the problem of corruption and unemployment, which are the main problems of countries applying for EU membership, was analysed in detail. The author believes that the future of the Balkans lies in the EU and that, provided that the countries follow a specific European integration policy, they will be able to attract investment and increase jobs.

Unlike many academic papers, this study did not address specific areas that require legal adaptation. The peculiarities of legislative changes and harmonization of legal systems were considered in general, as the study of each area separately requires a much broader research. Some aspects of legal policy implementation were considered in W. Musiał *et al.* (2021), which examined EU energy policy against the background of increasing air pollution and environmental disasters. Legal policy in the field of the environment is also part of the European integration process, as preserving the natural environment and ensuring environmental safety is one of the EU's priorities and values.

The findings of this study make it clear that Ukraine's path to EU membership is complex and will be implemented gradually. In the context of European integration, Ukraine has open paths for gradual accession, which requires more than just political will, but real reforms and transformations. The authors' work allows clearly understanding the position of European society that there will be no accelerated accession to the EU unless Ukraine fulfils the mandatory conditions. In the scientific publication, G. Van der Loo and P. Van Elsuwege (2022) also analysed the prospects of Ukraine's accession to the EU in the context of full-scale military operations.

In the course of the study, the authors analysed the issue of Ukraine's path to European integration. This research paper, as well as the work by R. Van Elsuwege (2021), addresses the issue of ratification of the EU-Ukraine Association Agreement, as certain political and legal problems arose after the referendum on the approval of the Agreement by all members of the Union. This case set a new precedent for the ratification of a mixed agreement. This paper provides a better understanding of the legal processes involved in signing international agreements and preparing states for EU accession.

The recommendations presented in the paper were formulated on the basis of the analysis of the experience of other EU member states. Thus, the author studied the work of M. Hetmantsev *et al.* (2022), which conducted a comparative analysis of the civil procedure legislation of Estonia and Ukraine in the context of EU integration. The author investigated the relationship of civil procedural rules in Estonian legislation with the European rules. Thus, this work has become an example of effective European integration. Estonia can become a vivid example to follow in the implementation of legal norms, since without studying international experience, implementation in Ukraine will be difficult and multi-stage.

Having studied a number of scientific works in the field of implementation of European legislation and European integration, it is worth noting that most authors study the specifics of European policy in general. Some scholars discuss EU integration within a specific area, such as energy or environment. In addition, many scholars are interested in the issue of Ukraine's prospects for joining the EU, given all the difficulties associated with armed aggression. What this study has in common with other research works is that it also examines the basic requirements for joining the EU, theoretical approaches, and methods of adapting Ukrainian legislation to implement European legal norms. However, unlike other studies, this research paper comprehensively examines the implementation of the Association Agreement into Ukrainian legislation, identifies the main problems and difficulties encountered along the way, and outlines certain practical recommendations that can be applied to remove such obstacles. After an overview of the legal framework governing the implementation of European legal norms, the author outlines the steps and achievements that have already been made on the path to European integration.

Conclusions

Implementation involves the transfer of EU legal norms and their reflection in national legislation. In turn, adaptation is a procedure for bringing Ukrainian legislation into line with the norms of *the acquis communautaire*. Adaptation does not mean literally replacing legal norms, but implies harmonizing legislative acts in accordance with European ones and is carried out in a certain sequence: establishment of those acts of *the acquis communautaire* that regulate relations in a particular sphere where changes are necessary; translation of the specified acts into Ukrainian; conducting a comparative analysis of the legal regulation of relations in a particular sphere in Ukraine and in the EU; forming recommendations for bringing Ukrainian legislation into line with *the acquis communautaire*; conducting an analysis of the economic, social, and political consequences of implementing recommendations; creating a list of draft laws that need to be adopted in the integration process; preparing draft laws of Ukraine and other regulatory legal acts that are on the list and their adoption; monitoring the process of implementing legislative acts of Ukraine.

The problems associated with the implementation of EU law can be divided into two groups: objective and subjective. The first group includes those circumstances that do not depend on Ukraine and its political will, namely Russian aggression. The second group includes those circumstances that can be influenced by specific measures, and their effectiveness depends on political will and political decisions. The main problematic aspects of the implementation include: the absence of a single legislative document that could fully regulate the implementation process; inconsistency between the legal acts of Ukraine and the EU; differences in the formation and development of the legal systems of Ukraine and the EU countries; a significant level of corruption in government structures; insufficient knowledge and language skills

of specialists involved in this activity. There are also objective circumstances that impede effective integration, such as full-scale military operations on the territory of Ukraine. It is worth noting that the process of adaptation should be carried out with due regard for national interests and the needs of Ukrainian society. Measures that could improve and accelerate the process of implementing European legislation include: establishing coordination between all branches of government; creating a single Ukrainian-European glossary to harmonize legal terminology; engaging foreign experts and using technical support from EU experts.

The limitations of this study are that the study of the peculiarities of harmonization of Ukrainian legislation with the European one was carried out taking into account the general principles and requirements of the EU. In other words, the issues of implementation and adaptation were studied broadly and certain areas of implementation were not taken into account. Therefore, the prospect of further research is to study the peculiarities of harmonization of legal norms in the field of ecology, energy, and other areas of public life.

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Імплементація Угоди про асоціацію з ЄС шляхом адаптації українського законодавства до права ЄС

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Анотація. Здійснення інтеграції України до Європейського Союзу є одним із найважливіших напрямків розвитку держави, тому однією із умов зближення України та Європейського Співтовариства, а також умовою вступу до ЄС є адаптація українського внутрішнього законодавства до норм права ЄС. Метою дослідження було визначення особливостей та проблемних аспектів у здійсненні імплементації права Європейського Союзу у національне законодавство. Методами дослідження були: історичний, періодизації, формально-юридичний та метод проблемного аналізу. В ході дослідження було вивчено особливості та проблеми адаптації законодавства України до права ЄС. В ході дослідження було виявлено, що законодавство адаптується на основі Угоди про асоціацію між Україною та Європейським союзом, що включає Європейське співтовариство з атомної енергії та їхні держави-члени. Процес імплементації передбачає перенесення норм ЄС у національне законодавство, тоді як адаптація полягає у приведенні національного права у відповідність з законодавством ЄС. Чинним законодавством передбачено три етапи здійснення адаптації законодавчих норм, метою яких є проведення якнайбільшої гармонізації із законодавством ЄС. Оскільки імплементація є нормотворчим процесом, то включає у себе певну послідовність дій. Зокрема, встановлення актів *acquis communautaire*, створення переліку законодавчих актів, які необхідно прийняти та підготовка їх до прийняття, здійснення моніторингу проведення імплементації та інші послідовні дії. Окрім цього, процес адаптації повинен здійснюватися на основі принципів відповідності до директив ЄС, принципу добровільності, визначеності термінології та повноти. Серед факторів, які є перешкодами для здійснення імплементації, слід виділити такі: російська агресія, інституційна неспроможність державних органів, високий рівень корупції, велика кількість колізій у законодавстві

Ключові слова: європейські стандарти; критерії вступу до ЄС; механізми наближення законодавства; євроінтеграція; верховенство права; гармонізація права

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Foreign securities: Issues and prospects for the Ukrainian stock market

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Abstract. The analysis of the current state and identification of problems of foreign investment in Ukraine are related to various factors and aspects, including the instability of the economic environment, insufficient development of the legal framework, etc. Therefore, the study aims to analyse the circulation/use of securities and identify problems and opportunities for the development of the Ukrainian stock market. To achieve this goal, various scientific methods were used, including synthesis and analysis, formal legal and other methods. It is established that due to the implemented reforms aimed at modernisation, the financial market of Ukraine is open to investors and has expanded opportunities compared to the past. It is noted that the war initiated by Russia has led to a significant increase in the investment gap between Ukraine and other countries. It is emphasised that new measures are needed that have the potential to contribute to economic recovery in the future and strengthen its resilience to possible economic shocks. To ensure the efficiency of the investment process, it is proposed to use the most appropriate and effective strategies that should be included in the provisions of the Resolution of the Cabinet of Ministers of Ukraine "On Approval of the State Strategy for Regional Development for 2021-2027". The author proposes an integrated mechanism for attracting foreign investment, which provides for the establishment of a favourable investment climate and intensification of investment activity. Recommendations that can be used to improve legislation on attracting foreign investment in securities have been formulated and substantiated. These proposals may be useful for the practical activities of state authorities aimed at supporting foreign investment in securities in the current stock market of Ukraine

Keywords: financial situation; international cooperation; capital market; shares; financial security legislation

Introduction

Creating a favourable investment climate is one of the most urgent needs to support economic growth in Ukraine. Ukraine has made important progress in this area. Reforms to create a favourable environment for investors have led to an increase in foreign investment. This demonstrates the effectiveness of the measures taken and their positive impact on the economy. Securities traded on international exchanges have become available not only to large investors but also to every Ukrainian (National Bank of Ukraine, 2018). On 29 July 2019, Apple shares were added to the Ukrainian stock exchange list. In addition to Apple, shares of such giants as Google, Amazon, and Facebook have become available to Ukrainian investors. In addition, foreign companies with production assets in Ukraine, such as Myronivsky Hliboproduct and Ukrproduct Group, can buy securities on the domestic exchange (Ukrainian Exchange, 2019). In the context of the Russian-Ukrainian war, the issue of foreign securities is of particular importance, as the war creates significant political and economic instability that may affect investment confidence in Ukraine as a host country. In addition, the war may also affect the country's financial stability by reducing economic growth, worsening the investment climate and increasing financial risks (Shubalyi, 2023). This may lead to changes in the rates of accounting and placement of securities, as well as to a general decline in confidence in the country's financial system.

The scientific community actively studies the prospects for the development of the Ukrainian stock market in the context of attracting foreign assets, including securities. For instance, according to the study by V. Burianov and G. Kulish (2023), Ukrainian securities do not attract significant interest from foreign investors, but it is possible to increase their attractiveness by optimising the parameters of corporate bonds to make them similar to those of the Western market. Given this, the article proposes a model for attracting investment to restore Ukraine's infrastructure and economy. The study by O.V. Shevchenko (2022) focuses on the organisational and legal aspects of administrative services in the Ukrainian stock market. This market functions as a space where its participants communicate, which gives rise to

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various legal relations aimed at issuing, circulating, fulfilling obligations, redeeming and accounting for securities, including derivative financial instruments. This demonstrates the importance of the stock market as a key element of the financial sector of any country at the present stage.

M.S. Mishchuk and R.S. Butko (2022) consider the legal essence of the stock market as a complex socio-economic system, which is the foundation for the effective functioning of the market economy. With proper development, a highly developed infrastructure and effective legal protection of the interests of all participants, this market is a powerful catalyst for economic progress in any country. Therefore, securities enable companies and governments to raise funds for the development and implementation of projects, and for investors to receive a return on investment, and are an important element of the financial system of each country and contribute to its economic development (Sraieb, 2022). According to S.Y. Shyshkov (2022), Ukraine faced numerous difficulties in attracting individual investors to the stock market and increasing their confidence in financial instruments. Even with certain positive trends, such as increased investment in government bonds and the spread of technological expertise, some problems require systemic solutions. Some of these challenges, such as financial constraints and low financial literacy, require a comprehensive approach and overall economic development.

T.G. Kovalchuk and D.O. Vara (2024) argue that attracting foreign direct investment is key to Ukraine's economic development in the current environment. This requires active measures to remove obstacles and create a favourable climate for investment. The development of an appropriate strategy should include mechanisms aimed at attracting stable investment in the domestic economy, which will be crucial for sustainable development even in difficult times. According to A. Kiruba and M. Chandra (2023), under certain conditions, attracting foreign investment can contribute to positive economic development, manifesting itself in increased capital investment, the introduction of new technologies, and an increase in foreign exchange. This becomes especially important in times of economic instability.

The Russian-Ukrainian war is a complex situation with many aspects that require deeper understanding and research. Although a considerable amount of analysis and discussion has already been conducted on this issue, additional research is needed. Further research could help identify promising ways to attract foreign investment in the current situation. Therefore, the study aims to identify problematic aspects and prospects for improving the legal regulation of foreign securities in the Ukrainian stock market.

Materials and methods

Various methodological approaches and research tools were used to study potential opportunities for the development of the Ukrainian stock market, in particular concerning attracting foreign securities. This included a review of current financial data, an assessment of the regulatory environment, a study of international experience, and economic forecasting. In addition, financial modelling tools, statistical methods of analysis and expert opinions were used. This comprehensive approach was used to study various aspects of market dynamics in detail and to identify possible ways to develop the stock market given foreign investment opportunities.

The analysis method was used to address this issue in the context of regulatory and legal support, identifying the interrelationships and influence of various factors on the formation and development of the Ukrainian stock market through the prism of attracting foreign securities. The article also uses a systematic method to organise various concepts of understanding foreign securities in the context of the functioning of the Ukrainian stock market in the context of the Russian-Ukrainian war for further analysis. In addition, the method of descriptive analysis was used to determine the factors influencing the development of the stock market in the context of attracting foreign investment in the context of war.

The formal legal method was used to determine the basis for regulating foreign investment in securities on the Ukrainian stock market. This method included the study of relevant legal acts, agreements, standards and other documents regulating relations in this sector. The method of classification was used to study various aspects of the state's activities and compliance with legal norms relating to foreign investment, securities circulation and stock market operations. This method involved systematising and dividing aspects into groups or categories for further analysis. The method of specification was used to identify the main problems and gaps that exist in ensuring the successful implementation of foreign investment in securities in the current stock market of Ukraine and to consider each aspect in detail, identifying solutions to improve the efficiency of the stock market.

Various specification and generalisation methods were used in the study to identify the main problems that complicate foreign investment in securities in the current environment. A variety of legal sources were analysed in the study and for a deeper understanding of the issues, in particular Resolution of the Cabinet of Ministers of Ukraine No. 695 "On Approval of the State Strategy for Regional Development for 2021-2027" (2020), Decision of the National Securities and Stock Market Commission No. 34 "On Approval of the Regulation on Admission of Securities of Foreign Issuers to Circulation in Ukraine" (2021), Resolution of the Verkhovna Rada of Ukraine No. 342/95-VR "On the Concept of Functioning and Development of the Stock Market of Ukraine" (1995), Civil Code of Ukraine (2003), Law of Ukraine No. 93/96-VR "On the Foreign Investment Regime" (1996), Law of Ukraine No. 1560-XII "On Investment Activities" (1991), Law of Ukraine No. 3480-IV "On Capital Markets and Organised Commodity Markets" (2006), Law of Ukraine No. 1116-IX "On State Support of Investment Projects with Significant Investments in Ukraine" (2020), Law of Ukraine No. 3497-IX "On Amendments to the Law of Ukraine "On Financial Mechanisms for Stimulating Export Activity" on Insurance of Investments in Ukraine against Military Risks" (2023). A variety of sources were also used, such as academic articles, books, dissertations, reports and other publications related to the topic.

Results

The introduction of the Resolution of the Verkhovna Rada of Ukraine No. 342/95-VR (1995) opened new perspectives for analysing and assessing the economic importance of the Ukrainian stock market and its exchange segment. According to the Resolution of the Verkhovna Rada of Ukraine No. 342/95-VR (1995), the main goal of the stock market is to ensure efficient circulation and rational allocation of fi-

nancial resources, which creates an opportunity for an objective assessment of the management efficiency of enterprises, promotes fair competition and prevents monopolisation. The Resolution of the Verkhovna Rada of Ukraine No. 342/95-VR (1995) also emphasises the importance of using international standards and principles of stock market functioning to ensure the high quality and efficiency of the securities market in Ukraine. To make the Ukrainian stock market an effective instrument for trading securities, promoting economic growth and providing reliable investor protection, it was necessary to build its structure and mechanisms of operation based on established principles.

Currently, one of the defining features and issues that are relevant to the Ukrainian securities market is the fact that a significant part of share trading is carried out outside the official exchange platform, which significantly undermines the transparency, liquidity and attractiveness of the exchange segment. For example, the total trading volume on the Ukrainian Exchange in 2024 was UAH 4,781,316,767.60, but only a very small share of this turnover was accounted for by equities, which indicates a lack of activity on the exchange (Fig. 1).

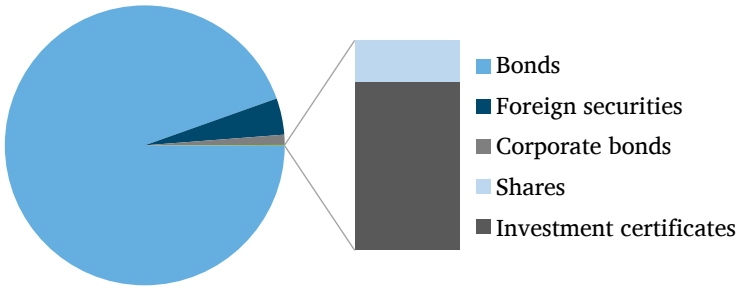

Figure 1. Structure of securities trading on the Ukrainian Exchange in January 2024
Source: compiled by the author(s) based on Ukrainian Exchange (2024)

According to Article 194 of the Civil Code of Ukraine (2003), securities are documents of a certain format with certain characteristics that indicate the existence of financial or other property rights, regulate the relationship between the issuer (the person who issues them) and the holder, provide for the fulfilment of obligations arising from them, as well as the transfer and use of the rights they grant. This confirms that Ukrainian law classifies securities as movable property. Ukrainian legislation, in particular Law of Ukraine No. 93/96-VR (1995) and Law of Ukraine No. 1560-XII (1991), establishes general principles for the regulation of foreign investment. According to Article 1(2) of Law of Ukraine No. 93/96-VR (1995), foreign investment is capital investment by foreign investors in projects that fall under the laws of Ukraine to make a profit or achieve a social effect.

At the same time, in the absence of a legislative definition of the term "foreign securities", Ukrainian legislation leaves the understanding of this concept at the level of generally accepted practices and international standards. Thus, according to the Law of Ukraine No. 93/96-VR (1995) and other relevant regulations, foreign securities are financial instruments issued by companies or governments of one country to raise capital in another country. These instruments can take a variety of forms, such as shares, bonds, depositary certificates and others. The main types of foreign securities are shares, bonds and depositary certificates.

Foreign securities represent an opportunity for investors to expand their investment portfolios and gain from their value appreciation and dividend or interest payments. However, there are risks associated with foreign securities, such as currency, political and economic risks, which should be considered when dealing with them. According to the Decision of the National Securities and Stock Market Commission No. 34 (2021), a foreign legal entity or professional capital market participant must apply to the National Securities and Stock Market Commission (NSSMC) for admission of the relevant issue of securities to circulation in Ukraine. The NSSMC can decide on the admission within 30 calendar days from the date of receipt of all necessary documents. The admission of securities of foreign issuers is carried out through a central depository or a relevant depository institution. Given the recent reforms undertaken to modernise the securities and financial instruments market, it can be assumed that the financial instruments market in Ukraine is open to foreign securities and offers investors a wider choice of financial instruments than ever before.

A major advance in this direction is the capital market reform of 2020. This initiative, including the adoption of the Law of Ukraine No. 3480-IV "On Capital Markets and Organised Commodity Markets" (2006), caused significant changes in the structure of the financial instruments market, which significantly increased its cross-border nature, openness and attractiveness to investors. Among the key benefits of this reform are the approximation of the market structure to European standards, the possibility of trading financial instruments on different exchanges, the introduction of a trade repository and other initiatives.

The current state and problems of foreign investment in Ukraine are characterised by several different factors and conditions, primarily the instability of our country's economy, the lack of necessary and effective legal provisions in the current legislation of Ukraine, and perfect state guarantees for investment in Ukraine, not only to provide guarantees to foreign investors. For a long time, the political situation in Ukraine has not been conducive to the proper development of investment activity and entrepreneurship in general. This was due to a series of changes in society that led to the redistribution of property, transformations in the activities of the Cabinet of Ministers of Ukraine and numerous personnel rotations in the government.

Most potential foreign investors still refrain from investing in Ukraine's agricultural sector due to the instability of legislation and significant tax burdens. That is why it is particularly important to create favourable conditions for

domestic investors in Ukraine, as their start of operations can serve as an important catalyst for both domestic and foreign investors. The country's investment attractiveness has reached its lowest level. This situation has been shaped by various factors. Among them are the ongoing war in the country and the declared martial law, high levels of corruption in government structures, instability in European integration processes, and others. Among the factors that slow down investment attraction and harm this process are the following:

- insufficient guarantees for investors to protect against changes in legislation, which creates risk and uncertainty;
- lack of developed infrastructure, which limits business and production opportunities;
- high inflation, which complicates financial planning and management;
- slow privatisation, as foreign investors and financial institutions prefer private companies due to greater stability and control;
- limited integration into the overall financial system of Ukraine, which leads to low activity of residents and non-residents;
- low capitalisation, which complicates its role in the economy;
- insufficient transparency for the general public due to poor quality of information disclosure and limited access to stock market-specific media;
- limited choice of investment instruments, which makes them less attractive to potential investors;
- insufficient compliance with European standards, which undermines stakeholder confidence and limits the number of potential investors.

Ukraine does not have a special tax regime for investments, as there are no specific mechanisms and guarantees for their effective implementation. Therefore, to ensure the stable development of the agricultural sector in Ukraine, it is necessary to amend the current legislation to consider the possibility of including this sector in the list of those that enjoy preferential taxation for investors, including foreign ones. It is also necessary to emphasise the priority of the agricultural sector in state and regional programmes, as attracting foreign investment is essential for the implementation of these programmes, contributing to the improvement and sustainability of the domestic industry.

Therefore, to ensure the efficiency of the investment process, it is necessary to use the most appropriate and effective areas, which may include: attracting foreign partners to implement investment projects aimed at developing industrial and innovation potential; expanding investment opportunities based on the current level of innovation; introducing modern organisational models to attract industrial and financial capital; efficient use of private and public resources in investment projects; development and implementation of investment programmes at the regional level; optimisation of state regulation in the market; increasing the availability of information on the stock market; use of advanced technologies to improve services to market participants; improving legal regulation for market participants.

Therefore, it is advisable to include these areas in the provisions of the Resolution of the Cabinet of Ministers of Ukraine No. 695 (2020). It is also necessary to highlight the areas of state support aimed at priority sectors where investments can lead to significant results in economic development. The proposed integrated mechanism for attracting foreign investment involves the establishment of a favourable investment climate and the intensification of investment activity. Its foundation consists of an economic and organisational component based on the conceptual framework and strategic planning for attracting foreign investment, determining priority areas for the use of foreign investment, a system of tax incentives, and expanding opportunities for foreign entities to be involved in the process of formation and privatisation of state-owned enterprises.

Economic strategies aimed at attracting and stimulating foreign investment focus on several key aspects: improving the international competitiveness of the national economy in the high-tech sectors; integration of the latest technologies; development of infrastructure and optimisation of telecommunication networks; provision of grants for scientific research; financial support for investors investing in research and technological development to promote the development of production, in particular, export-oriented production and to facilitate innovation processes.

The overall goal of implementing a comprehensive mechanism for attracting foreign investment is to ensure investment development both at the level of the country as a whole and at the level of its regional units. To increase the attractiveness for investors, it is necessary to take appropriate recreational and incentive measures that will encourage potential investors to consider investing financial resources in enterprises of the respective regional unit. The proposed measures should increase investment attractiveness at different levels of state support for foreign investment, and scientifically based recommendations will establish the importance of attracting foreign resources in the context of their impact on the relevant strategic and national investment development benchmarks.

The development, adoption and effective implementation of international standards reduce information inequality in financial markets and bring benefits to individual countries and the world as a whole: strengthening national financial systems by promoting adequate regulation and supervision, ensuring greater transparency and improving institutions, markets and infrastructure; enhancing international financial stability by promoting sound lending and investment decisions, improving market discipline, and reducing the risks of financial turbulence and market contagion due to the spread of negative information.

Thus, the new commitments will help restart the country's economy in the long run and increase its resilience to further shocks from the micro and macro environment. In the context of these circumstances, increasing foreign investment in Ukraine becomes a strategic objective aimed at supporting a sustainable and comprehensive post-war recovery. This goal is becoming a priority for both Ukrainian society and the global community. Increasing direct investment in the economy, social and environmental spheres to ensure Ukraine's stability will help improve the well-being of citizens, develop various industries, balance the political landscape, etc.

When formulating the prospects for foreign investment in the context of post-war recovery, the Ukrainian government should first carefully address the following issues that create obstacles to investment and identify measures that will ensure the country's investment attractiveness. The key tasks are to tackle corruption, ensure a level and transparent playing field for business, and implement a system that guarantees the fair operation of the judiciary, which requires

critical scale, and transparent public administration and public funds management based on new standards. Faith in Ukraine will be crucial in attracting more investment into the national economy.

Discussion

Assessing the peculiarities of the stock market development in Ukraine, it should be noted that despite the presence of a significant number of institutional participants, such as stock exchanges and brokerage companies, the market efficiency remains low. This points to the need to implement state economic policy aimed at regulating and reforming the market to improve investor protection and ensure transparency of participants. Thus, international cooperation in the field of legal regulation of the securities market is an important area for improving its functioning in the current environment.

As mentioned above, the stock market is considered unpredictable due to its dynamic nature, which is determined by many external factors and/or environmental influences. The complexity of its functioning is exacerbated by the fact that key events affecting the market do not occur very often. According to T. Muhhamad *et al.* (2023), experienced financial knowledge investors believe that in many cases, stock market behaviour is not completely unpredictable, and making informed investments can predict future events to a certain extent. However, it is worth noting that although sophisticated investors may have a significant level of financial knowledge and skills, there is no guarantee that their predictions of the market will be accurate. The stock market is a very complex and dynamic environment that is subject to a variety of factors, such as economic and political events, new technologies, geopolitical conflicts and other unexpected circumstances (Fesina, 2023). Even the best analytical methods and strategies cannot guarantee the success of investments, as risk is always present in the market. Therefore, while prudent investments can reduce risk, they cannot eliminate it and provide a steady return.

Scientific sources actively address the claim that foreign investment defines and dominates the economic life of a society. According to N.V. Hung *et al.* (2023), it is foreign investment that is the main channel through which innovation is introduced. As H.B. Meier *et al.* (2023) point out, such capital is of interest to entrepreneurs, as they can use best practices in doing business, which contributes to improving living standards and labour productivity, as well as the spread of innovation. According to M.T. Kartal *et al.* (2022), foreign investment in a country's economy is a catalyst for accelerated social and economic development, while M.I. Marobne and J.M.P. Kansheba (2022) and C.R. Weiss (2022) emphasise the importance and role of investment in the context of global integration and the impact of the COVID-19 pandemic. In support of this, it should be noted that foreign securities are an important component of investment for a country, as they provide an opportunity to attract foreign investment and develop the economy. Often, these investments take the form of modern equipment, which allows for the introduction of new technologies and increased production efficiency. For example, foreign investors may invest in equipment to expand production capacity, introduce new technologies or improve infrastructure. Such investments help to modernise production processes and improve product quality and international competitiveness. Furthermore, foreign securities can provide access to new technologies and knowledge, fostering innovation and stimulating economic growth in a country (Kudrina & Ivchenko, 2023). Thus, their role in attracting foreign investment and ensuring economic development is extremely important.

At the same time, I.O. Spatacean and M.C. Herteg (2023) believe that the standards developed by the Organisation for Economic Co-operation and Development are aimed at protecting the interests of joint stock companies and their competitive position. While these standards provide a framework, each country is free to develop its own general rules for disclosure and interpretation. However, the necessary preconditions for the full implementation of international financial disclosure standards have not yet been created. However, it is worth noting that at the current stage, the necessary preconditions for the full implementation of international financial disclosure standards have not yet been determined. However, new reporting rules are being gradually introduced and a corporate governance programme is being implemented to improve the mechanisms for disclosing information on the activities of joint stock companies. In addition, one of the main tasks is to define the concept of the international financial space, where countries and individual economic entities interact to manage financial resources and pursue the business interests of participants (Ismayilov *et al.*, 2023).

The implementation of these strategic objectives is considered a prerequisite for Ukraine's successful integration into the global economic system, especially in the context of its accession to the European Union. According to W.W. Yeoh (2023), the effectiveness of public policy depends on the efficiency and rationality of key measures aimed at developing the non-banking sector of the financial market and implementing an effective system of state regulation and control. Given the above, it is possible to note that the measures aimed at eliminating the shortcomings in the regulation of financial services markets are reflected in the Strategy for the Development of the Financial Sector of Ukraine until 2025 (National Bank of Ukraine, 2021), meet the requirements set out in the Association Agreement between Ukraine and the European Union (2014). If properly implemented, the programme will achieve the main goal of creating a developed, efficient and stable financial services market in Ukraine, balanced in all sectors, developing infrastructure and strengthening resilience to possible risks, as well as ensuring the adequacy of the actions of the authorised bodies in the control and supervision of the securities and other financial services market.

A study by C.S. Mpamugo *et al.* (2021) states that the government and regulators formulate policies to encourage companies operating in the domestic economy; including education and healthcare institutions, to list on the domestic stock exchange. While agreeing with this thesis, it should be elaborated that such policies should include the removal of obstacles to listing, as well as a public education campaign on the capital market. These measures will build investor confidence, increase investment instruments, reduce transaction and information costs, and provide quality and health education programmes that will contribute to economic development.

Achievement of key strategic goals is a critical condition for the successful integration of our country into the global economy. However, over the past decades, Ukraine has been actively reforming and transforming this area. According to J. Petry *et al.* (2023), the model of public administration of economic processes used in Europe is recognised as one of the

most effective. Summing up the positive experience of developing the global fund infrastructure, J. Inatilloevich (2023) emphasises the need to adapt and use market mechanisms of instruments that have been successfully tested by European investors to promote the fund infrastructure. While partially agreeing with the above theses, it is worth noting that there is currently a massive outflow of large European investors from the Ukrainian securities market. There has also been a decline in trading volumes on domestic exchanges and a lack of proper stock market infrastructure. Other problems in Ukraine's financial sector include low levels of financial literacy among the population and limited powers and independence of financial regulators in controlling the sector's participants (Khodakivska *et al.*, 2022). In general, there are no effective mechanisms for removing troubled financial institutions from the market. Addressing these gaps in the legislation requires developing the institutional capacity of financial regulators. The key issue is the legislative definition of a mega-regulator or the adoption of a sectoral model of regulatory policy and a clear definition of the competencies of the responsible authorities.

According to J. Li *et al.* (2023), the use of machine learning algorithms in long-term inventory forecasting models proposed by artificial intelligence (AI) and deep learning requires more attention than traditional support vector regression, especially given the high efficiency of AI and deep learning. According to N. Belevadi (2024), investors should adopt a rational approach to technical signals rather than blindly trusting or rejecting them. The concepts of rational and value investing are essential. The use of machine learning is key to the continued successful and sustainable development of the entire stock market. This practical technology helps investors make informed decisions based on a realistic assessment of the intrinsic value of shares and other financial instruments (Barlybayev *et al.*, 2023). In conclusion, the use of machine learning algorithms in long-term forecasting models can be a useful tool for investors, but their effectiveness should not be overestimated. Traditional methods, such as support vector regression, can remain important tools for market analysis and decision-making. Investors need to approach technical signals with caution, analyse them carefully and consider all possible risks. The use of machine learning should be accompanied by a rational and informed approach to investing, and not treated as the only and most effective strategy. It is also important to keep in mind the need to diversify the portfolio and avoid overestimating risks.

Thus, the Ukrainian stock market faces various problems and challenges concerning foreign securities, but they also open up new prospects for development. The growth of foreign investment can contribute to the modernisation of the economy and the attraction of new technologies but requires a careful analysis of risks and a proper market development strategy. Therefore, it is important to continuously improve regulation and stimulate investment activity for the stable and successful functioning of the Ukrainian stock market.

Conclusions

At the present stage, Ukraine's foreign economic activity has undergone a significant decline as a result of the full-scale invasion of the Russian Federation and the ensuing negative consequences. Consequently, the Ukrainian financial market, while performing key functions to support the economy, is important in facilitating the redistribution of financial assets. The cross-border nature of this market is crucial for cross-border cooperation in financial areas and for making the Ukrainian financial sector attractive to domestic and foreign investors. The modern capital market is open to foreign issuers, which opens up opportunities for them to enter the Ukrainian financial market, provided they comply with Ukrainian legislation.

At the moment, Ukraine has not yet established clear rules and standards for securities transactions due to the young age of the market itself and the unstable regulatory system of the stock market, which is only gaining momentum. The country's investment prestige remains low due to various factors, including the war and the introduction of martial law, high levels of corruption in government structures, the incomplete process of European integration, and others. All these events play an important role in the future of the Ukrainian stock market and the overall economic situation in the country. This unstable environment has led to Ukraine gaining the image of a region with significant investment risks.

The following factors slow down the process of attracting investment and have a negative impact on it: lack of guarantees for investors to protect them from changes in legislation, which creates uncertainty and risks for the investment climate; low level of infrastructure development, which complicates investment and increases production costs; high inflation; slow pace of privatisation, as foreign investors and financial institutions prefer private enterprises, which limits opportunities for capital investment in the state-owned sector; weak integration into the general financial system of Ukraine, which leads to low investment activity of residents and non-residents; low capitalisation, which means that the stock market is too small to play a significant role in the national economy; insufficient transparency for a wide range of stakeholders due to poor quality of information disclosure and weak development of media specialising in the stock market; limited choice of investment instruments, which makes them unattractive for potential investors; incomplete compliance with the requirements of European legislation, which reduces the level of stakeholder confidence and limits the number of potential investors. A range of measures are proposed to implement these strategic directions. One of the key tasks in this context is to develop the insurance system and integrate it into international insurance markets. This involves attracting leading insurance companies to regional markets to provide insurance for various types of investment risks and to improve the skills of specialists in this area.

For further research in the context of the topic under study, it is necessary to consider the Russian-Ukrainian war and its impact on foreign investment in securities of Ukrainian companies and government bonds, in particular, in the direction of determining changes in the investment climate and risks for foreign investors in connection with the war. An equally important area of research is to determine the potential of foreign investment in times of war, in particular in the context of analysing opportunities for foreign investors with an understanding of the volatility of the stock market to make profitable investment transactions.

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Conflict of interest

None.

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Іноземні цінні папери: проблеми та перспективи для фондового ринку України

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Анотація. Аналіз поточного стану та ідентифікація проблем іноземного інвестування в Україні пов'язані з різними факторами та аспектами, серед них: нестабільність економічного середовища, недостатня розвиненість правового поля та інші. Тому метою цього дослідження є аналіз обігу/використання цінних паперів та виявлення проблем та можливостей розвитку українського фондового ринку. Для досягнення цієї мети використовувалися різні наукові методи, включаючи синтез і аналіз, формально-юридичний та інші методи. Встановлено, що завдяки впровадженим реформам, спрямованим на модернізацію, фінансовий ринок України відкритий для інвесторів і має розширені можливості у порівнянні з минулим. Відзначається, що війна, ініційована Росією, призвела до значного збільшення інвестиційного прірви між Україною та іншими країнами. Акцентовано, що потрібні нові заходи, які мають потенціал сприяти відновленню економіки у майбутньому і зміцнити її стійкість до можливих економічних шоків. Для забезпечення ефективності інвестиційного процесу запропоновано використовувати найбільш доцільні та ефективні стратегії, які необхідно включити у положення Постанови Кабінету Міністрів України «Про затвердження Державної стратегії регіонального розвитку на 2021-2027 роки». Запропонований інтегрований механізм приваблення зарубіжних інвестицій, який передбачає встановлення сприятливого інвестиційного клімату та активізацію інвестиційної діяльності. У рамках роботи сформульовано та обґрунтовано рекомендації, які можуть бути використані для удосконалення законодавства з приводу залучення іноземних інвестицій у цінні папери. Ці пропозиції можуть бути корисними для практичної діяльності державних органів, що спрямована на підтримку іноземних інвестицій у цінні папери на сучасному фондовому ринку України

Ключові слова: фінансовий стан; міжнародне співробітництво; ринок капіталу; акції; законодавство з фінансового забезпечення

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Practice-based methods of bringing to legal liability for anonymous defamation on the Internet and in the media

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Abstract. As of 2024, the need to coordinate generally accepted standards on legal liability for anonymous defamation in the virtual space of the Internet and the media is becoming more relevant in the context of rapid technological development and digital transformation. Therefore, the study aims to identify the most common and effective approaches to bringing liability for the dissemination of false information in the virtual space of the Internet and the media. A variety of scientific and legal methods were used to achieve this goal, in particular comparison, forecasting, generalisation, system analysis, formal legal, formal logical and other methods. The author analyses the controversial aspects related to the protection of individual dignity, honour and commercial reputation of individuals in the context of the Internet, covering the basis for the emergence of legal relations in this area and the practical challenges faced by individuals seeking to protect their rights to dignity and commercial reputation violated by the dissemination of information on the Internet which is considered to be biased or inaccurate. The study shows that most national courts today reject claims aimed at protecting privacy on the Internet and do not recognise the information disseminated through this channel as unreliable, without requiring its refutation. Recommendations that can be implemented in practice to bring individuals to legal liability for false information disseminated anonymously on the Internet and in the media are developed and justified in this study. The author suggests practical ways that can be used to exert legal influence on persons who commit anonymous defamation on the Internet and the media

Keywords: dissemination of false information; humiliation of honour and dignity; protection of business reputation; disinformation on the Internet; reliability of information

Introduction

The fundamental rights of an individual in the digital space include not only the freedom to create, collect, store and disseminate information but also the right to receive complete, timely and reliable information about events and phenomena. Thus, according to Articles 2 and 3 of the Constitution of Ukraine (1996), as well as Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), everyone has the right to freedom of expression. Therefore, it is necessary to devote particular attention to the legal regulation of the dissemination of reliable information in this digital environment.

This issue has already been addressed by many scholars and researchers. For instance, S. Bevz and O. Samchynska (2021) analysed the provisions of Article 173-1 of the Code of Ukraine on Administrative Offences, which relates to liability for spreading false rumours, and identified several shortcomings in its application in modern conditions. In analysing this problem, this problem was found relevant due to a discrepancy in determining the objective side of the violation due to the presence of various subjective assessment categories, such as "unconfirmed rumours", "panic" and "public disorder".

M. Blikhar (2023) addresses the legal framework for the protection of personal data on the Internet in his research. He points out that despite the existing legal framework, recipients of personal data do not always comply with legal requirements in full or selectively. Thus, the problem of personal data protection on the Internet remains relevant for all parties interested in this issue: data subjects, recipients and the state. The low level of digital literacy among Internet users is the main reason for this problem. Many individuals are not sufficiently familiar even with the basic principles of legal and technical means of protecting their data, which are necessary to prevent their illegal use without their proper consent. The role of the state in this context is to create and ensure the effective functioning of the legal and regulatory framework for the protection of personal data on the Internet.

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O.M. Kukh and A.M. Kukh (2021) address topical issues of court practice in cases of dissemination of false information. Thus, the author outlines the existing trends in case law in this category. The author proposes to improve liability for dissemination of false information, considering the case law, by: reasonable enforcement of court decisions for each method of legal protection of subjects (refutation of inaccurate information, removal of websites from it, publication of a full court decision along with refuted information or use of several of these measures); a clear definition of the concept of "false information" in the legislation; proceedings under Article 173-1 Code of Ukraine on Administrative Offenses (1984).

Awareness of the basic algorithm of actions in case of dissemination of false information will help protect rights and restore reputation more efficiently. M. Pakhnin (2023) conducted a study analysing the legal aspects of journalists' activities, in particular the criminalisation of defamation. One possible way to address this problem is to establish criminal liability for defamation. However, in the current Ukrainian context, there is a lack of effective application of the law, which does not meet the standards of protection of human rights and freedoms. Such conditions may lead to the use of defamation legislation to restrict freedom of speech, and a similar reason may be found in other articles of the Criminal Code of Ukraine.

V. Romanova *et al.* (2021) argue that public opinion of active social groups in modern society is formed upon subjective rather than critical analysis of the information received. The process of development and implementation of new legislative acts aimed at regulating the status of subjects of information relations on the Internet and establishing the grounds for their liability is also the subject of the study. The problem of dissemination of inaccurate information through the media and the Internet is addressed by the laws of Ukraine regulating public relations in the field of information dissemination, following the Civil Code of Ukraine.

S. Onyshchenko *et al.* (2023) addressed the possibilities of developing and implementing new legal norms aimed at regulating the status of subjects of information relations in the online environment and establishing the grounds for their legal liability. The results of the analysis show that enhancing personal data protection in times of crisis requires an integrated approach that includes regulatory, organisational and communication measures. For instance, it is necessary to improve data protection legislation in the context of modern technological dynamics, as well as to introduce mechanisms of international cooperation to effectively address this issue and support education and awareness raising of citizens and organisations on data protection.

L. Arbatman and J. Villasenor (2022) conducted a detailed analysis of the current legal framework governing personal data protection, focusing on its relevance in the context of technological progress and digital transformation. This approach identified key aspects of legal regulation in this area and established the need for further legislative initiatives or improvements.

Despite the widespread interest in this topic among legal researchers, there is a need for further scientific research on this phenomenon. Thus, it is possible to argue that the dissemination of false information about a person, including through the media and the Internet, is becoming increasingly relevant both in practice and among academic groups. Therefore, the study aims to examine and identify effective strategies for bringing individuals to legal liability for spreading anonymous accusations, through the media and the Internet.

Materials and methods

A wide range of different methods was used to establish practical ways of bringing to legal liability for anonymous defamation on the Internet and in the media, including comparison, forecasting, generalisation, system analysis, formal legal, formal logical and other methods. Thus, the comparative method was used to analyse the experience of the United States of America and Germany in regulating and resolving disputes related to defamation on the Internet and in the media. This method was used to identify similarities and differences in legislation, judicial practice and approaches to solving the problem in two different countries.

The systematic analysis method was also used to compile different approaches to understanding defamation and to expand the classification of threats to personal data security, especially in martial law, to analyse them more deeply, their origin and types. This method was also used to identify the factors that determine the specifics of protecting a person who has been the subject of false information on the Internet or in the media and to identify factors that affect the protection of a person who has been the subject of defamation or false information on the Internet or in the media. The overall objective of this method is to improve knowledge of the nature of defamation and threats to personal data security, especially in conflict situations, and to develop more effective strategies for protecting this data.

The formal legal method was used to systematise the key provisions of the legal acts regulating the functioning of the legal mechanism for personal data protection. This method was used to assess the current state of the problem and identify opportunities for improving practical measures to bring justice for disseminating false information about a person on the Internet or in the media. The formal logical method was used to formulate key conclusions and recommendations for improving the effectiveness of the existing methods of legal liability for anonymous accusations on the Internet and in the media.

The forecasting method was used to explore various approaches to the protection of personal data on the Internet and to identify relevant areas for improving the legal mechanism aimed at protecting personal information under martial law in Ukraine. By applying the method of generalisation, the study identified the main problems and gaps that impede the effective implementation of legal measures to establish liability for anonymous accusations on the Internet and in the media. This method was used to identify the lack of a clear mechanism for identifying persons who disseminate false information and the insufficient legal framework as the main factors that complicate the legal regulation of this issue.

Regulations of various legal sources were used in the study to fully understand and substantiate the issue, in particular: the Constitution of Ukraine (1996), Convention for the Protection of Human Rights and Fundamental Freedoms (1950), Resolution of the Plenum of the Supreme Court of Ukraine No. 1 "On Judicial Practice in Cases on Protection of Dignity and Honour of an Individual and Business Reputation of an Individual and Legal Entity" (2009), Decision of the Zvenyhorod District Court of Cherkasy Region (2023),

Decision of the Frankivsk District Court of Lviv (2023) and Decision of the Sviatoshynskyi District Court of Kyiv (2023). Moreover, a Department for Digital, Culture, Media & Sport of the UK (2022) report and other related materials were used in the study.

Results

Before studying the relevant aspects of judicial protection against defamation on the Internet, the essence and characteristics of defamation should be determined. According to the definition given in Resolution of the Plenum of the Supreme Court of Ukraine No. 1 (2009), information is considered false if it does not correspond to objective reality or is presented with a mistake. This means that it contains information about events or phenomena that did not exist at all or did exist, but the information provided does not reflect the real state of affairs, whether due to fragmentation or distortion. Such information may be disseminated through a variety of media channels, including the press, radio, television, and Internet resources, or through other means of mass communication and telecommunication, including profiles, statements, letters addressed to other persons, as well as public speeches and electronic networks, regardless of the form, which is intended to be directed at least one person.

Thus, it is worth noting that one of the key conditions for the dissemination of information is its reliability. The understanding of this term is subjective, as each person may consider it depending on their ideas. In addition, there is no official definition of "reliability" in the current legislation of Ukraine. Therefore, credibility can be viewed as the communication of truthful information under any circumstances or through oral explanations. Importantly, the concept of credibility should be objective and not be influenced by the perception of the information by a particular person or the method of its dissemination.

The analysis of publications on the political platform www.openpetition.de, which took place as part of the study, showed that users of this platform and the cultural community associated with it influence the spread and nature of offensive content. In addition, the study examined the impact of social norms on the theory of "online storms", which describes collective online aggression against subjects of public interest. These social norms can influence the expression of public dissent (Department for Digital, Culture, Media & Sport, 2022).

An experiment conducted on Reddit, a community dedicated to discussing scientific research with 13.5 million subscribers, included a proposal to moderators to post community rules in the comments at the top of some threads (Department for Digital, Culture, Media & Sport, 2022). This initiative resulted in a decrease in the number of users posting messages that violated the rules. The experiment confirmed that moderators' intervention can influence social norms and shape online behaviour, which supports the idea that the culture of a platform has a significant impact on the level of abuse. For example, a report by the UK Department for Digital, Culture, Media and Sport highlights anonymity-related abuses and identifies three main types of abuse: abuse, which includes discrediting individuals through false information they post or disseminate on anonymous networks; using anonymity to carry out cyberbullying and online threats; violation of the privacy and intimacy of individuals through anonymity on the Internet.

The overall conclusion from the research is that platforms can implement measures to change their culture to reduce the attractiveness of abuse to users by making such behaviour less attractive and discouraging. One possible measure is to limit the creation of multiple accounts for a single user, which can avoid the "longevity" of negative consequences. In today's environment, when a user is locked out of one account, they can often easily create another and continue the inappropriate behaviour.

Under Ukrainian law, there are various forms of legal liability for disseminating false information. For example, civil liability may be imposed for the dissemination of false information that violates the honour, dignity and reputation of an individual or legal entity. Thus, if the information disseminated by an unknown person is untrue and violates the rights of an individual, the latter has the right to apply to the court to recognise this information as untrue and refute it. This is provided for in paragraph three of part four of Article 277 of the Civil Code of Ukraine (2003). Given that the judicial procedure for resolving disputes is the most effective, let consider possible options for bringing a person to justice in court.

To establish the fact of a violation of a person's rights as a result of a defamatory statement, the legal elements of the offence must be present. Only the existence of such legal elements can serve as a basis for satisfying a claim. This implies the following circumstances: disclosure of information about a known person in any form; this information must relate to a specific individual or legal entity, i.e. the plaintiff; the information disseminated must be improper, i.e. not true; such information may violate personal non-property rights, causing damage to the relevant personal benefits or preventing a person from fully and timely exercising personal non-property rights.

In case of defamation of a person on the Internet, to bring the perpetrators to civil liability, it is necessary to identify the author who disseminated such false information and file a claim with the relevant court. There are many cases in court practice related to the protection of honour, dignity, business reputation and compensation for non-pecuniary damage as a result of the dissemination of false information about a person, including on the Internet. For example, in case No. 694/1379/22 (Decision of the Zvenyhorod…, 2023), the plaintiff states that on 27 July 2022 at 08:29 a.m. and on 03 August 2022 at 18:18 a.m., the defendant posted a text message about him on her personal Facebook page, which alleged the fact of the plaintiff's unlawful and socially unacceptable behaviour, which was negative, unreliable and violated his right to respect for honour and dignity, and humiliated his honour and dignity. The materials of another case show that in 2022, the defendant systematically terrorised the plaintiff with phone calls and messages that were threatening and unacceptable. Later, she received calls and messages from unknown persons who claimed to have found her phone number on the Internet. The circumstances described above have severely undermined her physical and mental state. She claims that she stopped sleeping and eating normally, stopped communicating with her family, and started taking sedatives (Decision of the Frankivsk…, 2023).

In the context of false information about a person being disseminated on the Internet, the violation of the rights of such persons results in appropriate actions requiring the removal of false data from the network. One of the most

effective remedies is to post information on the same platform that refutes the false information, as in the event of a court case, the court may order the person concerned to take such action. For example, the Decision of the Sviatoshynskyi District Court of Kyiv (2023), in the framework of the lawsuit, obliged the defendant to refute the information disseminated on the Internet on its website by publishing a refutation on the social network Facebook. An analysis of court practice shows that this method of protecting rights is considered to be the most effective, since in cases where it is impossible to identify the owner of a social media account, national courts dismiss claims based on the lack of a response (identification of a specific defendant). There is also the issue of disseminating false information on "fake accounts", where a web page is created under the guise of a name without reflecting the author's real identity. In such cases, an effective method of protection is to contact the social network administrator with a complaint about a violation of the company's policy. Administrators often respond to users' comments and can block those who violate the rights of others by publishing false information.

Given the accumulated experience of Ukrainian court verdicts, victims of defamation violations are advised to clearly define in their claim the nature of the information that they believe to be unreliable. In addition, it is necessary to provide evidence that this information relates to their person and has become known to other persons, considering the time, method and identification of the persons to whom this information was transmitted. It is also necessary to submit legal documents confirming that the social media account belongs to a specific person (defendant) in real life, as well as to indicate the copyright holder of the website where this information is disseminated. Therefore, the statement of claim should be accompanied by all available evidence confirming the circumstances on which the claim is based. In cases involving the protection of dignity, honour and business reputation, it is important to remember that plaintiffs must prove that the disseminated information adversely affects the person's honour, dignity and business reputation and violates their non-property rights.

Online platform providers, website moderators and bloggers should be careful when engaging in the dissemination of offensive speech, while journalists should be careful in their coverage of events and news to avoid publishing content that could be classified as defamatory. Even if truth is an absolute defence to defamation, it is often an extremely difficult or costly process to establish truthfulness.

One potential option would be to limit the jurisdiction of defamation cases to countries with which there is a "real and meaningful connection". For example, Germany has achieved quite a successful legitimate regulation of combating copyright infringement through torrent technologies. An agency cooperating with the copyright owner monitors attempts to distribute content on known trackers, obtaining information about the IP addresses of those who download and distribute content. Then, using the IP addresses, the provider identifies the infringer, who is sent a request for identification. This technology functions quite effectively (even if there are ways to circumvent it), but there are obvious difficulties in scaling: the availability of data transmission and the ease of identifying IP addresses, which are unique to torrent technologies (Civil Code of Ukraine, 2003).

In the United States, the Communications Act (1934) is often characterised by inconsistency. In a well-known decision, it was determined that an online service provider (considered as a conduit or disseminator) is liable for defamatory acts in publications of third parties on their platform. Thus, in the Stratton Oakmont case, the court found convincing evidence that the online service provider Prodigy acted more like a publisher than a distributor by installing moderators to control content, using filtering software and considering itself a family-oriented (another sign of content control) network access provider (Stratton Oakmont v. Prodigy, 1995).

Understanding such cases is key for institutions to formulate appropriate responses to requests for information from third parties or to address their involvement in the perception of harmful and anonymous speech when the institution itself is the target of such actions and seeks to identify the anonymous speaker. Thus, in the case of a person spreading false information, it is important to identify this person properly, which will significantly increase the chances of refuting such allegations. In such a situation, it may be useful to try to resolve the issue through out-of-court settlement, as the judicial system is overloaded, and the number of judges is limited. Therefore, before filing a lawsuit, it is prudent to consider all available options for resolving the situation outside the court system.

Bringing anonymous defamation to legal accounts on the Internet and in the media can be challenging due to the anonymity and global nature of the Internet. However, certain practical ways can be used to bring legal action:

- contacting law enforcement agencies. Law enforcement agencies may attempt to identify the person hiding behind anonymity through an IP address, but this requires a court order and cooperation with Internet service providers;
- contacting platform administrators. Administrators may be responsible for removing content or providing information about a user in the event of defamation being posted on a particular platform;
- involvement of civil society organisations and initiative groups. The active role of civil society organisations, in cooperation with legal experts and information technology experts, can help identify and document cases of anonymous defamation. These organisations can create mechanisms to collect evidence of disinformation and facilitate its transfer to law enforcement agencies for further investigation and prosecution of those who disseminate false information online. This approach will engage more third-party forces in the fight against anonymous defamation and ensure more effective control over its spread.

Discussion

A review of the legal mechanism for ensuring the security of personal data on the Internet requires a comprehensive analysis. Discussions on the effectiveness of this mechanism in ensuring the protection of private information on the Internet have caused a wide resonance in the scientific community. The position emphasising the importance of the control function in the legal mechanism of protection against defamation on the Internet and in the media is voiced by K. Akrami *et al.* (2021). While the above studies highlight the importance of analysing the legal framework for personal data protection in the context of technological advances, they do not fully consider the dynamics and complexity of the modern digital environment. These studies may be limited

in the context of constant changes in technology and data protection strategies. In addition, the positions of the above authors emphasise the control function in the legal mechanism of protection against defamation on the Internet and in the media, which may not consider the risks of restricting freedom of speech and privacy in the digital space.

Proponents of the introduction of liability for defamation G. Lee and A. Soonah (2022) point to the ineffectiveness of civil law defence, which, moreover, does not play any preventive role. According to D.T. Indriasari and K. Karman (2023), freedom of speech in Ukraine is increasingly associated with the unrestricted dissemination of unverified, sometimes even inaccurate, information facts. In addition, criminal liability for disseminating certain types of information is not something exceptional in the current legislation (Al-Zoubi, 2023). Thus, it is difficult to balance between protection against defamation and ensuring freedom of speech, which requires careful consideration and resolution by legislators. The diversity of approaches to the problem of defamation and freedom of speech reflects the complexity of the issue itself and the different perspectives of researchers on this subject. On the one hand, there is a need for effective protection against defamation and other forms of disinformation that may damage the reputation of individuals or organisations and disrupt public order. On the other hand, it is important to ensure freedom of speech and access to information, which are one of the main components of a democratic society. The balance between these two aspects is key to creating a fair and functional legal environment. It should be borne in mind that too much protection against defamation can lead to censorship and restrictions on freedom of speech, while insufficient control can lead to the spread of disinformation and harm society and individual rights. Therefore, addressing this issue requires in-depth analysis and discussion by lawmakers, researchers and the public to develop rational and effective legal mechanisms that will protect against defamation while not restricting freedom of speech and access to information.

According to N. Chaudhary (2023), the current diversity of case law lacks consistency, provides insufficient guidance and often fails to adequately address the rights of an anonymous person to express their views in the online space. For this reason, an approach is proposed that considers the overwhelming burden of proof for the person requesting disclosure of identity but also develops a specific balancing test that includes factors such as: form of anonymous expression; participation of the speaker in the main trial; extent and harm that could be caused to the parties if the wrong disclosure decision is made. While this approach is valid, it is worth elaborating that such a framework favours flexibility and adaptability, avoiding an attempt to create a one-size-fits-all standard that is likely to be inadequate given the huge variety of factual circumstances that arise in disclosure cases. This approach treats each disclosure case individually, considering all contextual factors affecting it. This may include the specifics of the case, the type and sensitivity of the information, privacy requirements and other circumstances. This approach ensures maximum adaptability and efficiency in dealing with specific situations.

I.D. Kurniawan and K. Kristiyadi (2022) emphasise that the actions of persons who knowingly disclose someone's name, whether they do so in public or via the Internet/media, can be stopped and punished by detention and compensation for the proposed activity. Public authorities, as guarantors of protection for those who are the subject of criticism, do not remain silent, protect victims, and appropriate rewards as a solution to minimise damage to their image. This is indeed the case, as the actions of the offenders cause significant damage to the victim, as they spoil their reputation, and in the worst case, may even lead to the victim's exclusion from society. Therefore, the practical methods proposed earlier that can be used to exert legal influence will allow for more effective prosecution of those responsible for committing defamation.

Following H. Shimizu (2023), the right to request disclosure of the sender is an established substantive law. Thus, the victim, who is the owner of the right, can exercise this right without going to court. In the case of publications that are not of general interest, ordinary actions of citizens in everyday life are emphasized. While partially agreeing with this thesis, it should be specified that in cases where the absence of public interest is found, the circumstances considered are such as a clear indication in the information of other motives, such as revenge, persecution or personal attacks, and the absence of signs that would indicate the presence of public interest. This is obvious from an analysis of the context. Furthermore, in cases where the same person systematically and persistently makes statements that deny the right to personal identity for ordinary private citizens, this goes beyond what is permissible under accepted norms and is considered an open violation of personal dignity and feelings.

According to L. Wang (2022), improving the civil law protection of the right to online privacy requires attention to two aspects: strengthening the legal framework to ensure adequate protection of the privacy of Internet users and raising public awareness of online privacy protection. In full support of this view, it is worth adding that the improvement of online privacy protection contributes to the formation of an effective civil law system and reflects the development of a socialist country, considering its peculiarities following Chinese specifics.

A.K. Jain *et al.* (2021) state that privacy breaches during interaction and presentation are becoming a significant future threat due to the relevant mechanisms of interaction with smart devices and systems that are constantly evolving. Interaction with smart devices and systems can undoubtedly be a source of privacy threats. However, it can also be a contributing factor in ensuring security and efficiency. Modern technology can be used to develop advanced authentication and encryption methods that protect personal data. In addition, innovative developments in cybersecurity can help to detect and prevent potential privacy breaches. Therefore, while there are threats associated with interacting with smart devices, the availability of these technologies can also provide new opportunities to improve data security and protection.

Some experts, in particular R. Qu (2023) and K. Lincoln *et al.* (2022), argue that anonymity creates a favourable environment for extremism and social degradation. On the other hand, A.O. Banjo and O.O. Dokunmu (2023), A.K. Čelofiga and T. Tomažič (2023) argue that the violation of online privacy is too high a price to pay for an uncertain increase in security. At the same time, it should be understood and borne in mind that the precise legal distinction between protecting the right to legitimate use of anonymity and intervening to prevent abuse remains a hotly debated

issue worldwide. Complicating factors such as differences in jurisdictions, technological workarounds, and conflicts between cultural values related to privacy make it difficult to create consistent global standards that are universal.

Given the above, researchers consider a variety of practical measures to prevent and respond to defamation, such as establishing a reasonable burden of proof, effectively combating false information, developing mechanisms for transnational cooperation, and strengthening the oversight and cooperation of social media platforms. A variety of measures, such as legislation, technology and education, aim to create a cyberspace that not only ensures freedom of expression but also promotes fairness and respect, making it a platform for communication, cooperation and inclusion.

The gradual or unpredictable introduction of regulation may undermine regulatory objectives and create uncertainty about legal obligations and liabilities, making it difficult for organisations and individuals to develop best practices in the use of online content. From a practical perspective, the global nature of online content also raises regulatory challenges: there is likely to be an incentive to harmonise standards and practices across jurisdictions, particularly on the major digital platforms, but a specific regime based on defamation law could create a risk of significant divergence between markets such as the European Union.

The most essential component of avoiding defamation lawsuits is the awareness and education of people, including active users of social media, regarding the use of these platforms for communication and dissemination of information. Internet/media users must exercise caution and prudence to avoid liability for their statements, comments and postings through the various social media platforms available. In today's fast-moving world, where technology enhances communication, traditional principles of defamation, while still relevant, are becoming more complex and are actively influenced by the social media era.

Conclusions

The issue of protecting honour, dignity and business reputation on the Internet and in the media is important in the modern world. With the growing popularity of social media, citizens are becoming more vulnerable to the flow of unverified information that finds its way online.

Particular attention is devoted to the following key aspects that are important for persons seeking protection in court for violations of their online image: confirmation of the publication of information on the Internet, which, according to the complainant, damages personal rights; identification of the parties to the case; analysis of the context and form of information to determine its reliability. These aspects are carefully considered by the courts when resolving cases related to the protection of honour, dignity and business reputation in the online environment.

A review of the current situation and legislative context in the fight against negative content demonstrates that the strategy of this battle cannot be limited to technical means of removing information, as provided for by the legislation of any country. As the amount of information is constantly growing, the identification and classification of potentially dangerous content, its legal regulation and the protection of citizens from it are becoming extremely difficult tasks in many cases.

Ukraine currently lacks a special law that would control the dissemination of information online. Therefore, when a person is faced with the dissemination of confidential or unknown information on the Internet, personal rights are to be protected in court, based on the general rules established in the procedural law, the Civil Code of Ukraine and the decisions of the Plenum of the Supreme Court of Ukraine No. 1, as well as the protection of the business reputation of individuals and legal entities. The procedure for reviewing relevant cases has a well-established algorithm, especially in cases where unverified information is disseminated through the print media (newspapers or magazines) or on the Internet.

When considering cases on the protection of personal data on the Internet and in the media, certain criteria of evidence are applied, which are quite stable. However, sometimes there are difficulties in identifying the owner of the website, the person who owns it and the defendant, as well as the source of information and other aspects. This casts doubt on the enforceability of legal protection and requires consideration of alternative approaches. Domestic courts usually dismiss claims and do not recognise information disseminated via the Internet as unreliable, without obliging it to be refuted. This may be because the courts consider evaluative statements about the plaintiffs to be residual and do not consider them defamatory, thereby limiting the possibility of obtaining adequate protection and compensation. Thus, domestic courts need to maintain a balance between the right to freedom of expression and the right to protection of dignity and privacy. The key to resolving defamation disputes is to maintain this balance.

Further research could include analysing measures to prevent abuse on the Internet and in the media. Additional research could include an analysis of measures aimed at preventing abuse on the Internet and in the media. This could include examining the effectiveness of various control strategies, the implementation of technological solutions to detect and block inappropriate content, and an assessment of the regulatory environment to ensure safety and compliance with online behaviour.

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Conflict of interest

None.

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Практичні способи притягнення до юридичної відповідальності за анонімні наклепи у мережі Інтернет та ЗМІ

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Анотація. Станом на 2024 рік існує необхідність у координації загальноприйнятих стандартів щодо юридичної відповідальності за анонімні наклепи у віртуальному просторі Інтернету та в ЗМІ, оскільки це стає актуальним у контексті швидкого технологічного розвитку та цифрової трансформації. Тому мета цього дослідження полягала у виявленні найпоширеніших та ефективних підходів до притягнення до відповідальності за поширення недостовірної інформації у віртуальному просторі Інтернету та ЗМІ. Для досягнення даної мети застосовувалися різноманітні методи наукового та юридичного характеру, зокрема: порівняння, прогнозування, узагальнення, системного аналізу, формально-юридичний, формально-логічний та інші. Проаналізовано спірні аспекти, пов'язані з захистом індивідуальної гідності, честі та комерційної репутації фізичних осіб у контексті Інтернету, охоплюючи основи виникнення правових зв'язків у даній області та практичні виклики, з якими стикаються особи, які прагнуть захистити свої права на гідність та комерційну репутацію, порушені через поширення в мережі інформації, що розглядається як необ'єктивна чи неточна. Виявлено, що більшість національних судів сьогодні відхиляють позовні вимоги, спрямовані на захист приватності в Інтернеті, і не визнають розповсюджену через цей канал інформацію як недостовірну, не вимагаючи її спростування. У роботі розроблені та аргументовані рекомендації, які можуть бути реалізовані на практиці для притягнення осіб до юридичної відповідальності за неправдиву інформацію, поширену анонімно в мережі Інтернет і ЗМІ. Запропоновано практичні способи, які можуть бути використані для здійснення правового впливу на осіб, які здійснюють анонімні наклепи у мережі Інтернет та ЗМІ

Ключові слова: поширення недостовірної інформації; приниження честі та гідності; захист ділової репутації; дезінформація в Інтернеті; достовірність інформації

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Formation of a personnel management system as a factor of increasing competitiveness and the enterprise security level in the context of digital transformation and new legal challenges

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Abstract. The relevance of the subject of forming a personnel management system in the context of the problem of increasing the competitiveness and level of security of enterprises lies in the need to adapt to the challenges of digital transformation and growing internal and external threats. The purpose of the study is to present a modern approach to the formation of an effective personnel management system, considering the emphasis on countering internal threats and ensuring the rights of workers. The research methodology involves the use of the expert analysis method for identifying key threats (the Delphi method as an auxiliary one), the hierarchical analysis method for organising threats and paired comparison for comparing threats. As a result, a list of the most substantial threats to the formation of the personnel management system is presented. Calculations determined that in the second half of the 2020s, the impact of internal threats on the personnel management system and the competitiveness of enterprises is expected to increase, which may negatively affect the provision of labour rights. It is established that the formation of a personnel management system is a complex process that is influenced by various factors and threats. Analysing threats through the prism of this theoretical and methodological framework, it is identified that not only the identified threats are critical, but also the dynamics of

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their development and interaction are crucial for the development of personnel management strategies. It was established that the complex impact of these threats requires not only a one-time response but also continuous adaptation of the personnel management system. The study highlights the importance of countering internal threats, which is crucial for ensuring enterprise security. The practical application of the research results can help businesses create a stronger and safer work environment that will help ensure workers' rights

Keywords: economic security; competitiveness of enterprises; forecasting; negative impact of threats; innovative approach; enterprise potential

Introduction

The relevance of forming a human resources management system in the context of digital transformation and responding to new legal challenges reflects a key trend in the modern business environment. In light of the constant evolution of technology and changes in the legal framework, businesses are faced with the need to adapt their human resource management strategies to ensure not only efficiency and competitiveness but also compliance with new regulatory requirements. This is especially important in the context of data protection, remote work, and digital employee rights, where legal aspects are becoming increasingly complex and require companies to have a high level of legal awareness and flexibility in management processes. Thus, the introduction of best HR practices that consider problems and current threats becomes critical for maintaining the stability and growth of enterprises in the face of rapid changes.

Due to modern socio-political and socio-economic trends, the practice of ensuring security and increasing the competitiveness of the enterprise has changed substantially due to the dynamism of the external environment. It is becoming increasingly important to use adaptive approaches and mechanisms to improve competitiveness and functioning and adhere to an effective overall development strategy. The emphasis shifts to how to solve the current problems that arise dramatically as a result of military operations. A balanced HR management system helps attract and retain talented employees, who are the basis of the company's innovation and competitive advantages. This includes developing effective strategies for motivation, career development, and staff training. Only the right direction in personnel management will allow maintaining the socio-economic balance of chemical industry enterprises constantly.

In the context of the formation of a personnel management system to increase the competitiveness and security of an enterprise in the context of digital transformation, the legal aspect plays a vital role. Current legal and regulatory requirements for digital security and data protection oblige businesses to adapt their HR management systems to new realities. In the context of these trends, it is worth mentioning study by V. Panchenko *et al.* (2022), focused on modelling risk assessment systems for investing in machine-building enterprises. Their work contributes to an understanding of the risk management aspect in HR management, especially in the context of the development of the knowledge economy. Risk management will help businesses adapt beyond simply implementing technological innovations to ensure the protection of employees' personal data. It also includes the development of a legal framework for regulating labour relations in the digital age, ensuring that these frameworks meet international standards and best practices. C.F.H. Villa *et al.* (2022) analysed sustainable competitiveness using data modelling. The study identifies predictive factors by countries, offering a macro-level perspective that is crucial to understanding global trends that affect HR strategies. Such legal considerations are critical to maintaining a balance between the use of digital technologies for operational efficiency and compliance with legal obligations related to privacy, data protection, and labour rights. Moreover, the legal framework surrounding digital transformation in HR management also highlights the need for transparency, responsibility, and ethical use of digital tools and data analytics in HR practices. Companies need to navigate laws related to employee monitoring, the use of artificial intelligence in recruiting and evaluating employee productivity, and the ethical implications of digital decision-making processes. Compliance with these laws not only reduces the risk of legal liability but also contributes to the creation of a culture of trust and security among employees, which is essential for improving the overall competitiveness of the enterprise. A.J. Saleh *et al.* (2020) delved into the legal aspects of managing cryptocurrency assets in national security systems. This study is particularly relevant given the growing digitalisation of financial assets and its implications for HR management in businesses concerned with both competitiveness and security. The study highlights the importance of incorporating legal expertise into the strategic planning of HR systems, ensuring that digital transformation initiatives are effective in achieving business objectives and conforming to evolving legal standards.

O. Sylkin *et al.* (2018) and V. Bazyliuk *et al.* (2019) assessed financial security and institutional dynamics in the machine-building sector. These studies provide insight into the financial and institutional challenges that HR systems must address to improve enterprise competitiveness and security. L.M. Gitelman, *et al.* (2017) compared the competitiveness of network companies with the own generating units of industrial companies. This comparison is crucial for understanding the different industrial contexts in which HR systems operate. Finally, N. Najah *et al.* (2022) emphasise the importance of HR management in ensuring security in machine-building enterprises and developing information models for e-commerce platforms. These studies highlight the crucial role of HR management in adapting to Industry 4.0 and the digital economy.

For modern science, an urgent scientific task is to present a methodological approach to assessing changes in the impact of modern threats in order to form predictive models that will increase efficiency. Notably, the effectiveness of personnel management in the context of improving competitiveness and safe functioning depends on determining the dynamics of changes in the impact of modern threats. That is why the purpose of the study is to form a modern approach to building an effective personnel management system in the context of increasing its competitiveness and safety.

Materials and methods

The study methodology is based on the method of expert analysis, which helped to establish a list of key threats that enterprises face in the context of digital transformation. This method, based on the knowledge and experience of industry professionals, researchers, and consultants with deep knowledge in the field of personnel management and digital technologies, was used to systematise and summarise the collective experience of experts, provided a solid foundation for identifying threats to the security and competitiveness of the enterprise. In the course of applying the method, 30 people from the industrial sector and ensuring the security of enterprises operating in Ukraine were involved. The expert group was formed by reviewing the respondents' resumes left in open resources. Experts were offered a list of potential threats to the modern chemical industry of Ukraine, using which experts had to assess the importance of certain threats on a scale from 1 to 9. The survey of experts was conducted online in January-February 2024. External threats are presented through Group T: low digital literacy (T1); cyber attacks and information leaks (T2); worsening changes in the labour market (T3); political and military instability (T4). Internal threats are presented through Group Y: internal socio-economic tension between management and personnel (Y1); low level of digital culture in enterprises (Y2); reduced human resources (Y3); inefficient team planning (Y4). Then, a paired comparison of threats was conducted in stages. All the experts involved were aware of the purpose of the survey and were familiarised with how their anonymity was ensured. Thus, the study was conducted in accordance with the principles of the Helsinki Declaration (1975).

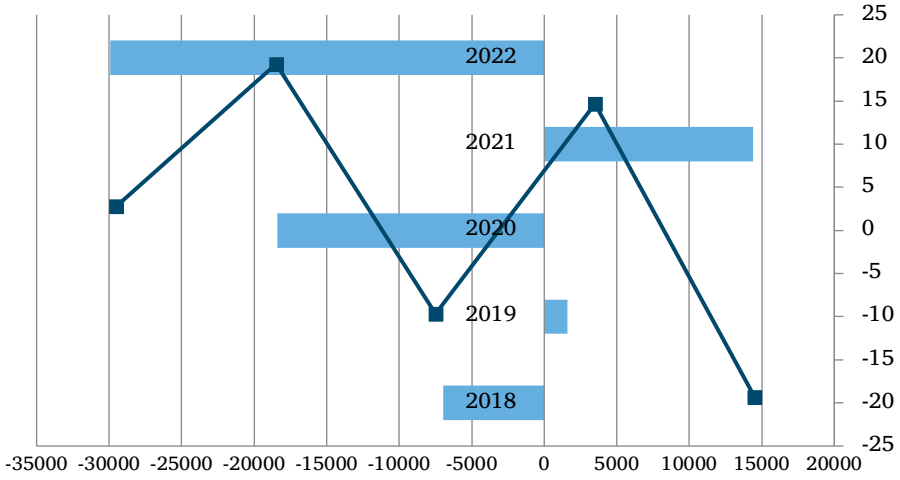
Therewith, the Delphi method is used as an auxiliary tool for expert analysis. This method of structured communication is designed to achieve a common opinion on specific issues among a group of experts. Through repeated rounds of questionnaires, the experts provided feedback and adjusted their views based on the group's aggregate responses, resulting in a refined and consensus-based understanding of the importance of threats and problems. The Delphi method is particularly useful because of its ability to leverage collective intelligence and reduce the impact of any individual expert's bias.

The hierarchical analysis method is used to systematise the identified threats in terms of their significance and potential impact. This approach allowed structuring complex problems into a hierarchy of subtasks, each of which was analysed independently. By breaking down the broader problem of HR threats into more manageable components, the relative importance of various threats was assessed, and their priorities were set accordingly. Complementing the hierarchical analysis, pairwise comparison was used to directly compare threats with each other in terms of their impact on the personnel management system. This method involved simultaneously evaluating a pair of threats and determining which of the two is more substantial and to what extent. This systematic comparison quantified the relative importance of each threat.

Given the dynamic nature of digital transformation and its impact on enterprise security and competitiveness, predictive analysis is crucial for predicting future trends. This aspect of the methodology involved predicting the future impact of identified threats based on current data, trends, and expert opinions. Through the graphical method, a modern model of personnel management is presented in the context of improving its competitiveness and safety.

Results

The chemical industry plays a key role in the global economy, as its products and technologies find applications in many sectors, including medicine, agriculture, construction, textiles, etc. It produces a huge range of products, from simple chemicals such as acids and alkalis to complex polymers and specialised pharmaceuticals. However, today it has a number of problems, which leads to a decrease in its overall profit (Fig. 1).



	2018	2019	2020	2021	2022
Profit loss	-6957,7	1599,1	-18397,4	14405,1	-29934,1
Profitability of operational activity	2,8	19,3	-9,7	14,7	-19,3

Figure 1. Dynamics of the volume of expenses and profitability of chemical industry enterprises of Ukraine, million. UAH
Source: State Statistics Service of Ukraine (2023)

The decline in the main performance indicators of chemical industry enterprises is influenced by a substantial number of factors, including various threats to both the external and internal environment. It is necessary to determine their impact and predict changes in it for subsequent years. The HR management system, as a factor in increasing the competitiveness and security of the enterprise, is a comprehensive and strategically important approach to the structuring and management of human resources in the organisation. This system covers a number of processes and practices that are aimed at making optimal use of employees' potential to achieve the organisation's goals and increase its efficiency and competitiveness in the market. The goal is to form an effective personnel management system, the highest level of the hierarchy of the presented model, while the second level will be presented in the form of certain threats, T and Y. The last level is designed to position various situations of development of the negative impact of modern threats: increasing the impact; no changes; reducing the impact (Fig. 2).

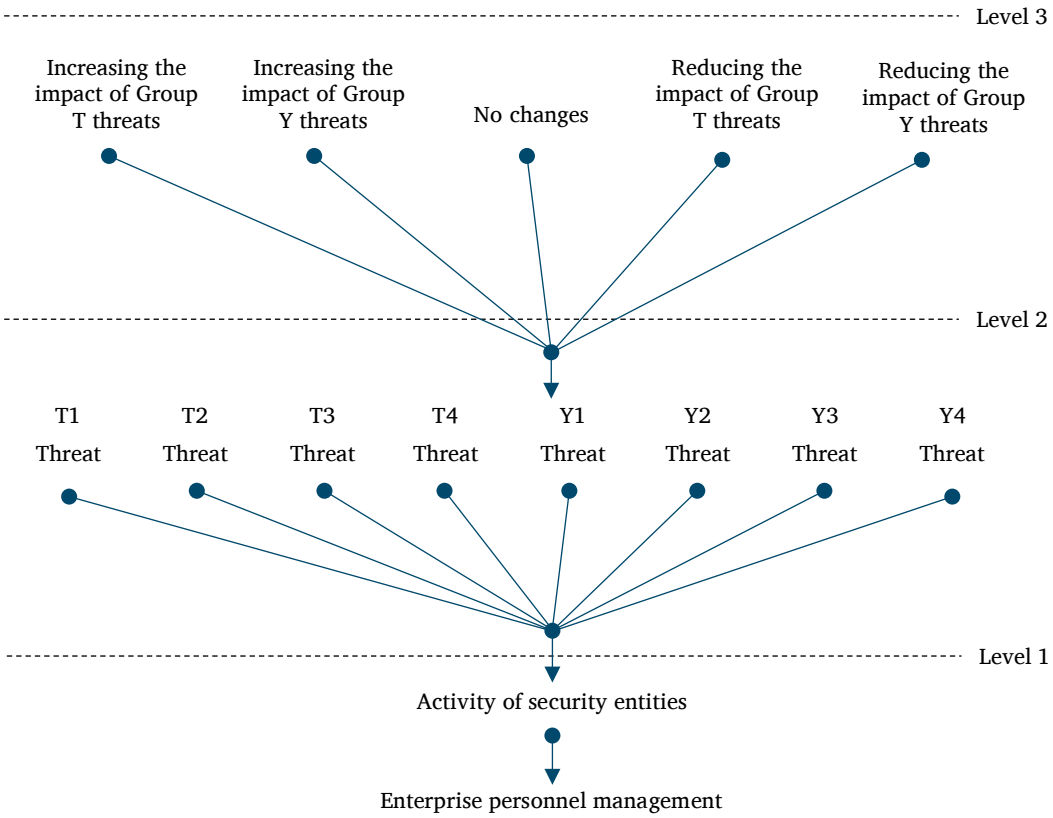


Figure 2. Modelling the task of establishing changes in the impact of modern threats
Note: the second level is represented as defined threats, which, for ease of visualisation, are designated: [T1; T2; T3; T4] and [Y1; Y2; Y3; Y4]
Source: compiled by the authors

Therefore, it is necessary to assess possible options for changing the negative impact of modern threats, considering the opinion of experts:

$$\frac{n(n-1)}{2}, \quad (1)$$

where n – the number of previously identified modern threats to the HR management system. This allows systematising and organisin g threats according to the degree of their impact on the HR management system, considering the opinions of experts. The table is designed in such a way that all its diagonal positions have a value of 1 (expressing the idea that the threat cannot be compared with itself), and at the bottom of the table, there are inverse values relative to the top. This is done to ensure consistency and objectivity of the assessment, making it easy to identify the relationships between different threats and their impact on the system (Table 1).

Table 1. Results of paired comparisons of possible options and scenarios

Current threats	T1 Threat	T2 Threat	T3 Threat	T4 Threat	Y1 Threat	Y2 Threat	Y3 Threat	Y4 Threat
T1 Threat	Value: 1	Value: 1	Value: 3	Value: 4	Value: 2	Value: 6	Value: 5	Value: 7
T2 Threat	Value: 1	Value: 1	Value: 2	Value: 3	Value: 5	Value: 1	Value: 4	Value: 6
T3 Threat	Value: 1/3	Value: 1/2	Value: 1	Value: 1	Value: 3	Value: 1	Value: 2	Value: 4
T4 Threat	Value: 1/3	Value: 1/5	Value: 1/3	Value: 1/2	Value: 1	Value: 1/4	Value: 1	Value: 1

Table 1, Continued

Current threats	T1 Threat	T2 Threat	T3 Threat	T4 Threat	Y1 Threat	Y2 Threat	Y3 Threat	Y4 Threat
Y1 Threat	Value: 1/4	Value: 1/3	Value: 1	Value: 1	Value: 2	Value: 1/2	Value: 1	Value: 3
Y2 Threat	Value: 1/6	Value: 1	Value: 1	Value: 2	Value: 4	Value: 1	Value: 3	Value: 5
Y3 Threat	Value: 1/5	Value: 1/4	Value: 1/2	Value: 1	Value: 1	Value: 1/3	Value: 1	Value: 2
Y4 Threat	Value: 1/7	Value: 1/6	Value: 1/4	Value: 1/3	Value: 1	Value: 1/5	Value: 1/2	Value: 1
Sum of elements	Value: 0.3	Value: 0.2	Value: 0.1	Value: 0.09	Value: 0.05	Value: 0.1	Value: 0.06	Value: 0.03

Source: compiled by the authors

The next step is to calculate the eigenvalue, consistency coefficient, and mismatch level, and according to Figure 3, all indicators are within acceptable thresholds. The level of inconsistency is a measure used to determine how strongly the estimates provided by experts deviate from the full sequence. A high level of inconsistency may indicate errors in estimates or an unpredictable complexity of the situation. Compliance with the normalised limits is a positive result, indicates strict compliance with the calculation procedure, and opens up an opportunity to move on to the next stage of modelling. Therefore, this means that the analysis was consistent and reliable. The eigenvalue value reflects the effective distribution of weight between different threats, the consistency coefficient is within acceptable limits, and this indicates the high quality of expert assessments and their suitability for further analysis.

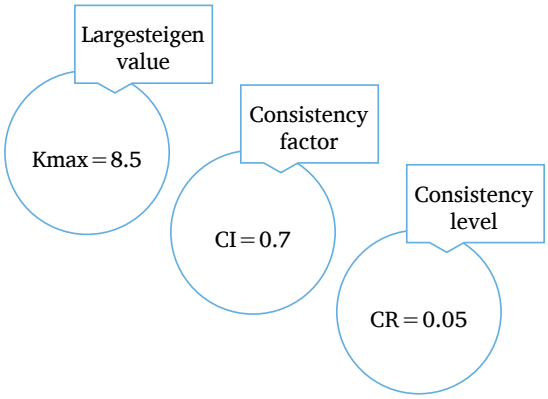


Figure 3. Results of determining the level of inconsistency

Source: compiled by the author

Therefore, next it is necessary to make the paired comparisons for certain three variants of the development of the negative impact of modern threats, according to the formula:

$$\frac{n(m-1)}{2}, \quad (2)$$

where m – number of options. Based on the obtained data, the main result of a paired comparison of changes in impact by the presence of the first of the identified threats can be presented: internal socio-economic tension between management and personnel. Notably, the threat in the form of internal socio-economic tension between management and personnel has a direct impact on the legal security of the enterprise since this tension can lead to violations of labour legislation, complaints from employees about discrimination, unsatisfactory working conditions, and conflicts that require judicial settlement (Table 2).

Table 2. The result of comparisons of changes in the impact of threats in the context of the presence of internal socio-economic tension between management and personnel

T1 Threat	Increasing the impact of Group T threats	Increasing the impact of Group Y threats	No changes	Reducing the impact of Group T threats	Reducing the impact of Group Y threats
Increasing the impact of Group T threats	Value: 1	Value: 1/5	Value: 1/5	Value: 3	Value: 1/3
Increasing the impact of Group Y threats	Value: 5	Value: 1	Value: 4	Value: 9	Value: 2
No changes	Value: 5	Value: 1/4	Value: 1/7	Value: 7	Value: 4
Reducing the impact of Group T threats	Value: 1/3	Value: 1/9	Value: 1/4	Value: 1	Value: 1/5

Table 2, Continued

T1 Threat	Increasing the impact of Group T threats	Increasing the impact of Group Y threats	No changes	Reducing the impact of Group T threats	Reducing the impact of Group Y threats
Reducing the impact of Group Y threats	Value: 3	Value: 1/2	Value: 1/4	Value: 5	Value: 1
Sum of elements	Value: 0.08	Value: 0.4	Value: 0.3	Value: 0.03	Value: 0.16

Source: compiled by the authors

The results of determining the level of inconsistency are shown in Figure 4. Notably, the indicators shown in this figure fully correspond to a certain level of the norm, which indicates high accuracy and compliance of the analysis with the established standards. This confirms that the detected levels of inconsistency are within acceptable parameters, which allows concluding on the effectiveness of the methodology used and the reliability of the data obtained. Such compliance is critical for further analysis and development of management strategies, as it provides an accurate understanding of the current situation and allows an adequate response to identified problems.

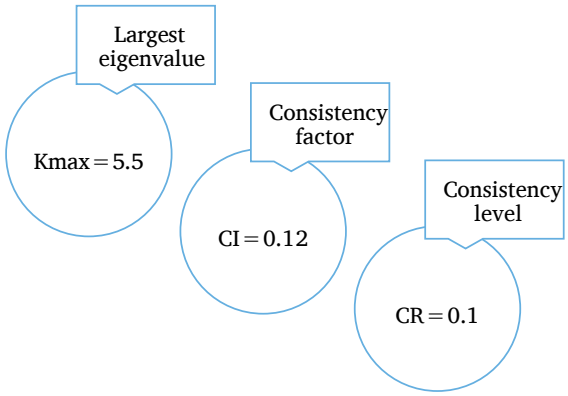


Figure 4. Results of determining the level of inconsistency for T1

Source: compiled by the authors

Then it is calculated in the same way for all other threats of Group T and Group Y. The next stage is the synthesis of priorities in the context of ensuring a high level of competitiveness and ensuring security under the influence of modern threats presented above in the text of the work (T and Y). Substituting the values from the tables described above, considering the essence of the equation, the results that are placed in Table 3 are obtained. Therewith, the strengthening of any threats in the personnel management system directly affects the legal security of the enterprise since shortcomings in management can lead to violation of labour legislation, illegal dismissal, discrimination, and violation of employees' rights to privacy and security. These aspects increase the risk of lawsuits, fines, and negative impact on the company's reputation. The lack of effective measures to prevent intra-organisational conflicts and communication deficiencies can lead to legal problems that require substantial resources to resolve them. Therefore, a stable and effective HR management system is critical for ensuring the legal security of a modern enterprise, reducing the risks of legal violations, and preserving its well-being.

Table 3. Priority matrix for possible changes in the impact of modern threats

U_i	$w_{1*}\, w_{1i} + w_{2*}\, w_{2i} + w_{3*}\, w_{3i} + \ldots\ldots w_{8*}\, w_{8i}$	
U_1. Increasing the impact of Group T threats	0.3*0.08 + 0.2*0.08 + 0.1*0.12 + 0.09*0.17 + 0.05*0.3 + 0.1*0.4 + 0.06*0.4 + 0.03*0.3	0.15
U_2. Increasing the impact of Group Y threats	0.3*0.4 + 0.2*0.4 + 0.1*0.4 + 0.09*0.4 + 0.05*0.2 + 0.1*0.1 + 0.06*0.1 + 0.03*0,02	0.303
U_3. No changes	0.3*0.3 + 0.2*0.3 + 0.1*0.3 + 0.09*0.2 + 0.05*0.2 + 0.1*0.16 + 0.06*0.18 + 0.03*0.02	0.235
U_4. Reducing the impact of Group T threats	0.3*0.03 + 0.2*0.05 + 0.1*0.07 + 0.09*0.15 + 0.05*0.2 + 0.1*0.27 + 0.06*0.26 + 0.03*0.22	0.101
U_5. Increasing the impact of Group Y threats	0.3*0.16 + 0.2*0.2 + 0.1*0.2 + 0.09*0.18 + 0.05*0.1 + 0.1*0.05 + 0.06*0.07 + 0.03*0.12	0.141

Source: compiled by the authors

Thus, the results of calculations demonstrated the need to focus on countering the negative impact of internal threats of Group Y since the results of U_2 demonstrate the growth of their influence in the future. In this context, the author's vision of the modern HR management system in the context of increasing competitiveness and security is formed, considering the emphasis on countering internal threats (Fig. 5).

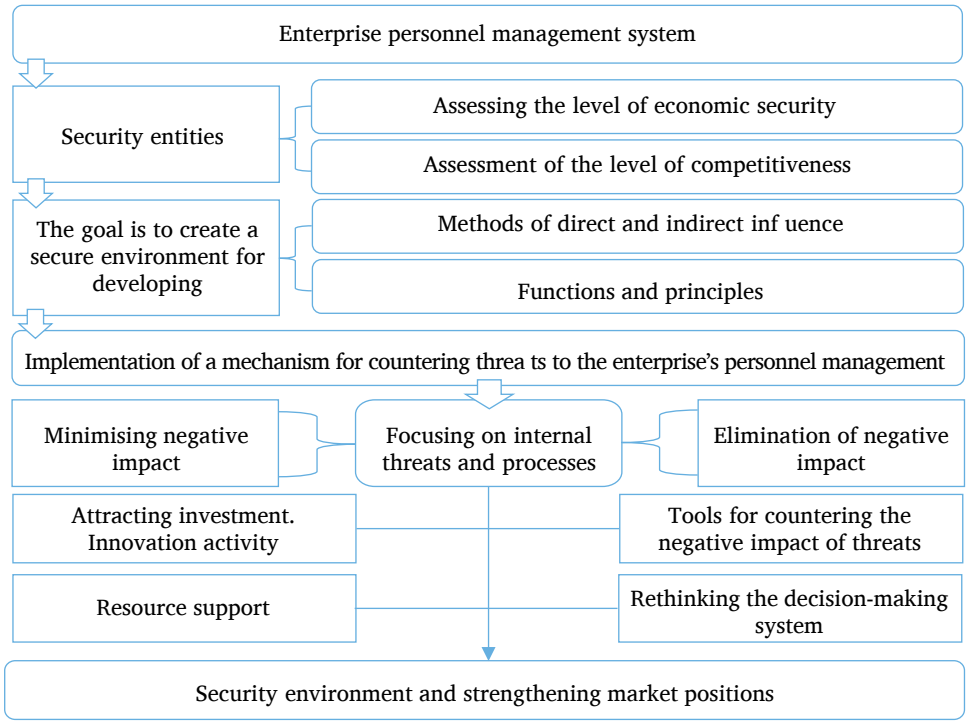


Figure 5. Model of a modern HR management system in the context of improving competitiveness and security
Source: compiled by the authors

The modern HR management system, focused on improving competitiveness and security and emphasising countering internal threats, plays a key role in ensuring the legal security of the enterprise. Integrating the principles of corporate ethics, creating transparent procedures for hiring, adapting, evaluating, and developing personnel contributes to creating a fair and inclusive work environment. Such an environment minimises the risks of discrimination, wrongful dismissal, or other actions that may lead to lawsuits. In addition, effective communication and the inclusion of employees in the decision-making process reduce internal socio-economic stress, which is also an important factor in legal security. Therewith, it should be understood that the use of advanced HR technologies for analysing personnel data allows identifying potential internal threats at an early stage and developing strategies to neutralise them. For example, training management systems can be used to conduct trainings on legal education and work ethics, raising employees' awareness of the legal aspects of their work. This approach not only promotes a culture of mutual respect and compliance with the law in the organisation but also ensures its resilience to possible legal challenges, thereby strengthening overall security and competitiveness in the market.

The formation of a human resources management system in the context of digital transformation is a key factor that substantially affects the ability of an enterprise to improve its competitiveness and security. Digital transformation not only changes traditional approaches to HR management but also opens up new opportunities for optimising workflows and improving efficiency. It is important that companies actively invest in developing the digital skills and competencies of their employees while maintaining a culture of innovation and continuous learning. Digital transformation in the chemical industry contributes to improving its competitiveness and operational security by optimising work processes and introducing innovations. It plays a key role in developing staff digital skills, maintaining a culture of continuous learning, and managing resources effectively.

The conditions of digital transformation require enterprises to adapt to new technologies and change their management strategy, particularly in terms of ensuring labour safety and the personal data of employees. Based on the legislation of Ukraine, the management of enterprises can improve the level of security and ensure compliance with the requirements for the protection of personal data. Implementation of the HR management system in accordance with the Labour Code of Ukraine (1996) and Law of Ukraine No. 2297-VI "On Personal Data Protection" (2010) should provide for the development and implementation of an effective policy for the storage and processing of employees' personal data. This may include protecting data from unauthorised access, implementing encryption mechanisms, and establishing rules for accessing information (Yakymenko, 2023). Management should ensure that all employees are familiar with the requirements for occupational safety and personal data protection, as well as regularly check compliance with the implemented procedures. This may include conducting trainings, risk assessments, and audits on security and data protection.

Legislation on personal data protection and labour protection (Law of Ukraine No. 2694..., 1992) can be complex and changeable. The company's management should be able to consult with lawyers to stay aware of the latest legislative changes and respond to them. Considering these aspects of legislation, the company's management can ensure a high level of security and protection of personal data in the context of digital transformation, which is a challenge for a modern state governed by the rule of law (Kopcha, 2021). This will not only contribute to compliance with the requirements of the law but also help maintain the trust of employees and customers, which is an important factor for the successful operation of the enterprise in modern conditions.

Discussion

A study by H.J.M. Shakhatreh *et al.* (2023) are dedicated to developing the legal framework in the field of national security, emphasising the growing importance of compliance with legislation and security in the digital age. O. Podra *et al.* (2020) in the study on innovation development and human capital as determining factors of the knowledge economy, obtained results that are consistent with the findings on the key role of human capital in improving the competitiveness and security of enterprises. O. Sylkin *et al.* (2023) examine the impact of international tourism on sustainable development and Ye. Rudnichenko *et al.* (2019) – qualitative impact of customs affairs on the system of economic security of the enterprise. Despite the fact that their study has a different vector, their use of the same methodological approach to improving efficiency allows researchers to come to similar conclusions to those made in this study – the need to use personnel to achieve a sustainable competitive advantage and a sustainable level of economic security of enterprises.

These findings are also supported by A. Poolkrajang (2023), focusing on developing competencies in the logistics sector. As in this study, the author emphasises the need to develop skills to adapt to digital challenges. Similarly, M.M. Ali *et al.* (2021) discuss the competence structure for effective HR management, which echoes the conclusions about the need for a comprehensive HR management strategy to counter internal and external threats. However, there are differences in the specific threats identified. This study focuses directly on the chemical industry and its unique challenges in the digital age, which may not be directly related to the education and logistics sectors discussed by A. Ningsih *et al.* (2022) and A. Poolkrajang (2023), respectively. In addition, this study focuses on internal threats compounded by digital transformation, but this aspect is not mentioned in the cited sources. The conclusions of these studies on the crucial role of human resource development in improving the competitiveness and security of enterprises are worth supporting.

Emphasis on competence development, made by A. Poolkrajang (2023) and M.M. Ali *et al.* (2021), was also made in this study due to the fact that digital transformation requires a high level of adaptability and skills from personnel. In the context of these findings, observations of A. Ningsih *et al.* (2022) on the importance of education in preparing the workforce for digital challenges, supporting our argument that comprehensive HR strategies are notable. Therewith, any disagreement with the conclusions or approaches of the cited papers primarily comes from the specificity of the object of this study, which led to a detailed consideration of internal threats associated with digital transformation. While the importance of development and human resources management is a common theme, this study focuses on the unique challenges and threats faced by chemical industry enterprises in the digital transformation process. In this regard, they may not be fully covered by broader human resources management structures and competencies. Moreover, the emphasis on predictive analysis to predict the future impact of threats, both internal and external, identified a perspective that was not considered in the cited studies. This analytical approach is crucial for developing preventive strategies to reduce the risks associated with digital transformation.

K. Piwowar-Sulej (2021) highlights the importance of continuous learning and development for manufacturing engineers. This reflects an understanding of the importance of developing employees' skills and competencies as a response to technological change. D. Qutni *et al.*, (2021) and D.T. Tu & D.T.T. Huyen (2021) emphasise the importance of personnel management in education to achieve the highest quality of the educational process. These studies point to the general need for effective personnel management in various sectors to improve quality and efficiency, which is consistent with the comments made on the need to adapt management practices to modern conditions. A. Todoshchuk *et al.* (2023), examining the role of IT in shaping effective HR management systems, established that they allow businesses to better navigate economic security. This confirms our understanding of the importance of digitalisation in HR management processes. I. Semenets-Orlova *et al.* (2021) highlight the importance of emotional intelligence for leadership in educational institutions during a pandemic, expanding the context of this study by highlighting the importance of soft skills in effective HR management.

The parallels drawn between this and other studies on the subject highlight the multifaceted nature of HR management in a rapidly developing digital environment. This highlights the need for a holistic approach that not only anticipates future trends and challenges but also integrates them into a robust, adaptable and forward-thinking HR management system.

Conclusions

The modern HR management system faces a number of legal challenges that require organisations not only to understand the current legislation but also to be flexible to adapt to constant changes. One of the key challenges is compliance with labour laws and ensuring the rights of employees, which includes regulating working hours, vacations, working conditions, minimum wages, and workplace health and safety. In addition, with the development of digital technologies, the issue of protecting employees' personal data arises, which requires companies to implement effective mechanisms for storing and processing information in accordance with the General Data Protection Regulation (GDPR) and other local data protection laws. Adapting to international standards and requirements in labour relations, especially for multinational corporations operating in different jurisdictions, is a substantial challenge. This includes not only understanding and complying with local laws in each country of presence but also managing cultural and ethical differences in approaches to work and employment. Businesses must address challenges related to teleworking, including regulating remote work, ensuring equality and equity for all categories of employees, and developing policies that balance flexibility and control in order to maintain productivity and motivate staff.

In the course of the study of the formation of a personnel management system in the context of digital transformation, its important role in improving the competitiveness and security of enterprises was noted. The study showed that effective personnel management both optimises work processes and protects the enterprise from the range of modern threats that are relevant for the chemical industry. Key results show that in the future, it is internal threats to personnel management and the competitiveness of enterprises will increase. This forecast is crucial because it highlights the dynamic nature of threats in the digital transformation era and their impact on emerging HR management systems. The results of the study emphasise that threat mitigation is not static but requires constant adaptation and precautions.

Thus, the formation of a personnel management system appears as a multi-faceted process, which is influenced by various factors and threats. This complexity requires a strategic approach to HR management that is holistic and predictive in nature. Identifying serious threats through this study provides businesses with a framework for prioritising their response strategies, ensuring the reliability and resilience of HR management systems. Moreover, the expected shift towards the predominance of internal threats requires a reassessment of current HR strategies. Businesses should use forward-thinking methodologies to predict and mitigate these risks while maintaining their competitive advantages and level of security. This requires commitment not only to the introduction of modern technologies but also to the development of a culture of continuous learning and adaptation among staff.

The formation of an effective HR management system in the era of digital transformation is a prerequisite for maintaining and improving the competitiveness and security of enterprises. One of the key aspects for further research is the impact of the latest technologies on personnel management. This may include analysing the effectiveness of implementing artificial intelligence and machine learning to optimise employee recruitment, training, and evaluation processes. It is also important to investigate the impact of digital culture and digital leadership on employee engagement and productivity. Special attention should be paid to the impact of digital transformation on corporate culture and changes in the organisational structure that accompany digital transformation.

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Conflict of interest

None.

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Формування системи управління персоналом як чинник підвищення конкурентоспроможності та рівня безпеки підприємств в умовах цифрової трансформації й нових правових викликів

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Анотація. Актуальність теми формування системи управління персоналом в контексті проблеми підвищення конкурентоспроможності та рівня безпеки підприємств полягає в необхідності адаптації до викликів цифрової трансформації та зростаючих внутрішніх і зовнішніх загроз. Метою статті є представлення сучасного підходу до формування ефективної системи управління персоналом з врахуванням акценту на протидії внутрішнім загрозам та забезпечення прав робітників. Методологія дослідження передбачає застосування методу експертного аналізу для визначення ключових загроз (метод Дельфі як допоміжний), метод ієрархічного аналізу для впорядкування загроз й парного порівняння для порівняння загроз. В результаті представлено перелік найбільш вагомих загроз формування системи управління персоналом. За результатами обчислень встановлено, що в другій половині 2020-х рр. очікується посилення впливу внутрішніх саме загроз на систему управління персоналом і конкурентоспроможність підприємств, що може негативно вплинути на забезпечення трудових прав. Встановлено, що формування системи управління персоналом є складним процесом на який впливають різні фактори й загрози. Аналізуючи загрози крізь призму вказаної теоретико-методологічної бази виявлено, що не тільки ідентифіковані загрози є критичними, але й динаміка їх розвитку та взаємодія мають вирішальне значення для розробки стратегій управління персоналом. Було встановлено, що комплексний вплив цих загроз вимагає не лише одноразової реакції, але й неперервної адаптації системи управління персоналом. Дослідження підкреслює важливість протидії внутрішнім загрозам, що є критичним для забезпечення безпеки підприємств. Практичне застосування результатів дослідження може допомогти підприємствам створити більш міцну та безпечне робоче середовище, що допоможе забезпечити права робітників

Ключові слова: економічна безпека; конкурентоспроможність підприємств; прогнозування; негативний вплив загроз; інноваційний підхід; потенціал підприємства

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Victimological aspects of countering internet crime: State and local government practices

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Abstract. Globalisation is a reason for increasing levels of anxiety, physical fatigue, and psychological problems, which weakens the ability of people to resist encroachment on themselves, especially in the Internet environment – the dominant sphere for communication. The study aims to identify the vectors of interaction between the state and potential victims of crime on the Internet by analysing the activities of the subjects of the direction in countries with different scientific and technical potentials. The study employed statistical methods to collect qualitative and quantitative indicators of the issue under consideration, as well as comparative analysis to compare the elements of state policy in the field of combating cybercrime. The intensity of crimes committed with the help of Internet tools is growing every year and it is primarily due to the growth of opportunities to perform various financial, social and other types of interaction in the online space. However, there is a direct correlation between the number of cybercrimes and the level of scientific and technological development of a country. According to the Global Innovation Index, some of the most innovatively developed countries are the United States of America, the United Kingdom and Japan, where the intensity of scientific progress is several times higher than in less developed countries, for example, in the Central Asian region. The role and place of state bodies concerning the prevention of Internet crime is extremely difficult to overestimate because it is the central and local government that has a leading position in the development of preventive measures to prevent and

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minimise the phenomenon of victimisation of society in the Internet space. The distinction and understanding of the types and directions of crimes in the online environment is necessary to create an effective mechanism to combat such crimes and to develop effective tools to inculcate a healthy lifestyle to prevent the development of victimisation traits in a person. The results of the work can be used as a practical basis for further research on the topic – development of state strategies to combat cybercrime

Keywords: collegial and one-man governance; human rights; scientific and technological capacity; collegial and one-man public authorities; hacker attacks; Global Innovation Index; countering Internet crime

Introduction

Although Internet crime has a history of about five to six decades, and in some countries less than that, it is a phenomenon that is of growing interest in society (Chadasama & Rajput, 2021). This is primarily because the implementation of this type of crime is most closely associated with the maximum involvement of ordinary citizens who are unsuspecting of their participation. Such citizens become unwitting accomplices of criminal actions, endangering not only themselves but also the state, its economic and social component, as well as creating challenges to the national security of the country. The topic of finding options for countering Internet crime through interaction between the population and government agencies is an urgent and timely issue. In the current context of the rapid growth of cybercrime and incidents involving the leakage of classified information of various defence establishments in some countries of the world, the victimological aspect of combating online crime is key. Awareness of ordinary Internet users and increasing their knowledge of safe behaviour on the Internet will be the basis for minimising the number of such incidents since in most cases ordinary citizens unknowingly pass on confidential information to criminals (Metelskyi & Kravchuk, 2023).

The issue of optimal ways to address cybercrime, organising preventive and preventive activities by government agencies and local self-government representatives, and educating the public on the basic rules and norms of interaction on the Internet has long existed. Much effort and attention has been devoted to its solution both by the official authorities and at the level of many public organisations. Therefore, it is essential to analyse in detail all components of modern state activity in the sphere of cyber defence and correctly prioritise the use of all mechanisms and tools in the fight against Internet crime, considering the victimological aspects of the sphere, since the security and successful development of the entire state depends on the training of the population and its mental readiness to resist online fraud.

The collapse of the Soviet Union and the rise of many young republics on the geopolitical map caused an immediate need to solve many problems, one of which was the topic of national security guarantees, in particular the protection of personal data and classified information. D. Aben (2019) believed that the main task of any government should be to react adequately to emerging problems that threaten national and regional stability and to take decisive steps regarding the most pressing problems. According to N.A. Seidakmatov and T. Narmamatova (2022), the media and all public personalities play a key role in the formation of a national strategy to protect the human right to privacy online. However, the authors did not consider the impact of ordinary citizens' careless behaviour on the frequency of online incidents to be a fundamental factor and root cause for the growth of cybercrime. Following M.U. Aliiaskarova (2022), the creation of a new world order emerged after the collapse of the bipolar security system. The researcher was the impetus for the formation of new structures and systems of global security, the basis of which on the border of the millennium became cyber activities and the development of online mechanisms to ensure stable and harmonious transformation of the state. However, the security of information arrays cannot be fully guaranteed, not so much because of the inherent victimisation of many Internet users, but because of the potential vulnerability of the online communication system itself.

The capabilities of new information technologies, such as artificial intelligence and innovative technical solutions, could be the basis for future cyber strategies in many countries around the world. H. Huang (2020) called these innovative tools – indispensable aids for relevant organisations and institutions dealing with Internet security issues – the most efficient and effective mechanisms for controlling and monitoring potential victims and, at the same time, unknowing co-conspirators of crimes committed on the Internet. D. Chudasama and N. Rajput (2021) and C.E. Griffith *et al.* (2023), on the contrary, believed that victimisation of society occurs precisely because of the large-scale application of information and communication technologies in all spheres of life and the context of collegial and sole management. Experts have identified restricting the free access of ordinary citizens to these technologies as the only way to slow the rate of cybercrime.

Public authorities, as a key source of control and execution of punitive functions, should act together with local government representatives to maximise the harmonisation of the communication process and improve the quality and speed of decision-making, which is particularly relevant for modern online interactions – both at the level of the individual and in the international arena (Sopilko & Rapatska, 2023). Local leadership, for example in individual states such as the USA or countries such as the UK, according to J.A. Hansen and G.L. Lory (2020), should take responsibility for educating the public on safe online behaviour. Furthermore, according to K. Yokotani and M. Takano (2021), intensive monitoring and control of citizens' interaction with social media and verification of content should be carried out by the representatives of the authorities – prosecutor's office, police – at the level of local government. At the same time, the ethical components of this issue are not discussed, as their consideration may lead to a weakening of control over citizens and, as a consequence, to a re-intensification of the processes of victimisation of society.

The study aims to identify the most effective areas of government action in the context of targeting potential and actual victims of cybercrime by examining and analysing various victimological aspects of the field in several countries around the world. The main objectives of the study are to identify the specifics of crimes committed in the Internet space; to identify the characteristic features and distinctive features of cybercrime counteraction in some countries of

the world; to summarise the factors that influence the choice of certain mechanisms and tools to minimise the victimisation of society.

Materials and methods

Scientific methods were used in the study to obtain a variety of practical information, generate data sets, draw conclusions and develop recommendations. The statistical method was used to analyse various qualitative and quantitative indicators related to cybersecurity, the fight against Internet crime and the prevention of online fraud in different countries. The method was also used to assess the performance of the development of scientific and technological potential of the world's states according to a comprehensive assessment of the innovation component of their economic and industrial development. The historical method was used to examine the stages of development of cybercrime policy in several countries by comparing periods and individual periods. In addition, the method was used to emphasise the differences in views and approaches to addressing the problem of internet crime in events such as the 2008 global economic crisis, the COVID-2019 coronavirus outbreak.

The comparison method was used to compare various indicators of some countries of the world in the context of analysing the effectiveness of their cybersecurity strategies through the prism of the general level of scientific potential. It was also used to evaluate different approaches to the application of certain steps in terms of the adequate response of central and local government officials to hacker attacks and breaches, using the example of such countries as the United States of America, South Korea, Great Britain. System analysis was used to identify general vectors and directions of research on the problem of cyber defence of personal data and classified information of the state and society in different countries of the world. System analysis was also used to fix the main subject of the work, its characteristics, specific features, common and distinctive features, functionality and dynamics of development in different periods.

The following materials were selected, reviewed and analysed to provide a more in-depth and effective consideration of the topic under study, namely the victimological components of combating online crime: Public Law No. 115-278 "Cybersecurity and Infrastructure Security Agency Act", 2018; state strategies and plans (Cybersecurity Strategy of the Kyrgyz Republic for 2019-2023, 2019; National Security Office, 2019; Cyber Security Strategy for Germany, 2021; HM Government, 2022; Office of National Security, 2023); statistical data (Zandt, 2023; Global Innovation Index, 2024; Internet World Stats, 2024); reports and reviews of international organisations and governmental authorities (9-48.000 – Computer Fraud and Abuse Act, 1986; Clark, 2023; Bundeskriminalamt, 2023); analytical material (Dzhumashova, 2021; Fixler & Furukawa, 2023; International Trade Administration, 2023). These materials supported the research presented here on countering Internet crime through the lens of assessing the potential of victimological aspects of public policy and contributed to the development of recommendations for further improving the interaction of all actors in the field.

Results

Basic concepts and terms for countering Internet crime. Countering and preventing Internet crime is currently a key topic of discussion at all levels of government and public administration in most countries, regardless of their level of scientific and technological development, which directly affects the range of options available to counter such crimes. According to several international organisations, statistics departments and cybercrime authorities in several countries (Cybersecurity Strategy of the..., 2019; Zandt, 2023; Fixler & Furukawa, 2023), cases of online extortion and financial fraud on the Internet have increased manifold over the last five years. This is especially true for such areas as so-called phishing (obtaining confidential data fraudulently) and money transfer fraud (during transactions, purchases) (Mikkola *et al.*, 2020; Seidakmatov & Narmamatova, 2022;) (Fig. 1). Since the involvement of outsiders, often unsuspecting citizens, in such crimes is maximised, national authorities must develop and effectively implement the components of civil self-control in the prevention of online crime.

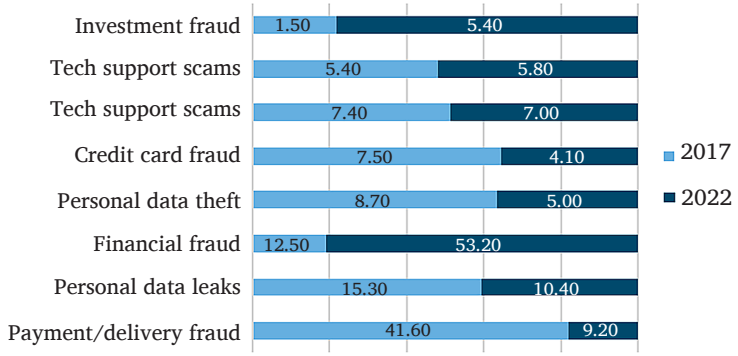

Figure 1. Percentage of the most common forms of cybercrime (comparison of 2017 and 2022 data, %)
Source: compiled by the authors based on G. Zandt (2023)

To better and more accurately analyse how cybercrime can be countered by assessing the various victimological aspects of cybercrime, it is important to first understand the basic terms and definitions of the topic. As such, according to some experts (Mikkola *et al.*, 2020; Aliiaskarova, 2022; Griffith *et al.*, 2023), the essence of the concept of "victimhood" includes a mental feature of a person or group of persons to increased susceptibility to the influence of others and, consequently, the property of often becoming a victim of crimes of different nature. Victimisation is the process (gradual or rapid) of transforming a person or group of persons into a victim or victims of such

crimes (Hawdon, 2021). Consequently, the victimological aspects of prevention in certain areas should be interpreted as activities aimed at prevention, prophylaxis, and skills training of individuals – potential or already accomplished victims of crime – to different types and levels of resistance to these crimes (Drew, 2020; Park *et al.*, 2022).

K. Yolotani and M. Takano (2021), M. Erendor and M. Yildirim (2022) believe that a distinction should be made between Internet crime, cybercrime and online crime, motivated by the fact that the Internet, as a global network, encompasses many concepts and components. Any action related to the technical, automated or machine aspects of the Internet can be considered cyber activity. Furthermore, online activity is exclusively related to real-time processes. However, although this distinction is used in the practical activities of several specialists, in this paper the concepts of Internet crime, cybercrime and online crime, as well as cyberterrorism (computer terrorism) will be used as synonyms.

Considering all Internet crimes in a generalised way, as a forensic manifestation of social attitudes, it is possible to define such crimes as any illegal actions involving a computer, server or network connection (Ismailova & Muhametjanova, 2016). Today, there are many different types of illegal actions and unauthorised transactions involving online tools. In 90% of cases, they target personal information (obtaining confidential data directly from the victim) – in such cases the amount of financial gain ranges from minimal to average, in the remaining 10% of cases – the crimes target organisations, businesses and other legal entities, causing substantial economic losses (Griffith *et al.*, 2023). All illegal cyber activities are carried out using a computer (less often a telephone) and local networks and servers, using a variety of techniques and schemes (Table 1).

Table 1. Types of cybercrime depending on the objectives and methods

Target	Cybercrime name	Crime aim
Humans	Replacement of email	E-mail distribution
	Spam	Advertisements
	Phishing*	Fake e-mail distribution
	Botnet**	Sending false instructions to other computers
	Net espionage	Hacking into individual computers for blackmail and extortion purposes
	Cyber defamation	Publishing untruthful information on websites or sending emails
	Espionage and/or cyberstalking	Sending e-mails, posting messages on bulletin boards, chat rooms, online user groups
Property	Credit card fraud	Obtaining a credit card number by illegal and/or fraudulent means
	Intellectual property offences	Software hacking, copying illegal software, illegal distribution of software copies
	Copyright infringement	Reproducing or performing a copyrighted product without proper authorisation
	Trademark infringements	Affiliation to a trademark without the authorisation of the trademark owner or licensees
Society	Forgery	Creation of fakes and dubplates (high and low quality) through the use of high-quality scanners, printers and computers
	Cyber-terrorism	Terrorist/hacker attacks on servers and online systems
	Clickjacking***	System and program hacks
Organisations	Digital bill theft	Banking system hacks
	Unauthorised access to a personal computer	Login and password cracking
	DoS attacks****	Executing various applications (spamming, spreading viruses) to disrupt network and/or server response
	Flooding	Virus/hacker attacks
	Digital “bombing”	Mass e-mail spam on one address
	“Logic” bomb	Running programs whose playback depends on events and/or algorithms
	Trojans	Unauthorised code execution within an authorised program by unauthorised subjects
	Data fraud	Execution of unauthorised commands

Note: * – gaining access to confidential user information; ** – a network of personal computers infected with viruses and malware; *** – a system of multiple exchange tasks performed on a website using malware to hack and obtain confidential information; **** – a hacker attack on a server and/or system to overload its infrastructure

Source: compiled by the authors based on H. Saleh *et al.* (2017), J. Hawdon (2021), J. Borwell *et al.* (2022), G. Zandt (2023)

The main goal of Internet fraud and various online offences is, first, to obtain financial gain through blackmail and extortion, and then (much less frequently) to inflict moral damage through the dissemination of untruthful confidential data or information of an intimate nature without the purpose of obtaining monetary reward (Lee & Wang, 2024). Specifically, regarding the harmful impact of cybercrime on various sectors of government development, it is worth highlighting the impact on business (financial and economic) and national defence (internal and external security).

Specific damages from the impact of hacking and hacker attacks on businesses and organisations around the world are difficult to quantify (Borwell *et al.*, 2022). Cybersecurity Ventures, an international organisation that assesses the

level of cybercrime in the world, estimates that online crime is growing at an annual rate of 15% and predicts that by 2025 the total damage from online crime could reach over $11 trillion (a preliminary estimate based on data from the world's largest businesses) (Oleksiewicz & Civelek, 2023).

The main and most harmful consequences for businesses and industries from online misconduct against them are: a drop in investor confidence as a response to poor protection of personal data (in case of hacker attacks); reduced flow of investments and capital expenditures, difficulties in raising additional capital; receiving fines and sanctions due to leaked personal data of clients (in case the situation escalates and the company is sued); reputational risks, which are among the most dangerous, as name and brand are now key signs of recognisability and popularity among customers; disruption of production processes, logistics routes and other elements of business and organisational operations due to hacking of web portals, servers or systems.

Hacker attacks can be even more dangerous to national security and state defence capabilities. Public health, banking and other areas that operate with massive amounts of personal data can be affected by unauthorised actions on their systems. Leaks of sensitive information can be catastrophic, especially if the information falls into the hands of terrorists, other criminal groups or competitors who can use the data at will, causing irreparable damage to the state and its citizens. Although the dynamics of cybercrime are becoming more intense every year, the level of identification of victims and attempts to assess the financial damage remains at a rather low level (Drew, 2020). This situation has many causes – overt and those that are hidden or tend to manifest themselves in the future. The causes can be grouped according to the following criteria (Chadasama & Rajput, 2021): access to personal data (refusal to provide information stored on personal electronic resources to law enforcement authorities); personal time (unwillingness to use time to visit the police to go through all the bureaucratic mechanisms – filing a report, drawing up an offence, giving evidence); interaction with law enforcement agencies (mistrust of representatives of the police, prosecutor's office and other agencies, based on various reasons); publicity risks (fear of publicity among acquaintances, colleagues, business partners about the situation, fear of criticism from their side); rights and freedoms awareness levels (low awareness of human rights in the sphere of online communications and rules of safe behaviour on the Internet).

Prevention and avoidance of any offence is the most important element in combating illegal actions. This is especially relevant in the context of Internet crimes, which are becoming a mass phenomenon in almost every country, in every sphere of state and public administration and are widely discussed by collegial and sole representatives of public authorities on most national and international platforms. At the moment, the level of prevention of this kind of atrocity remains unsatisfactory due to the uncontrolled growth in the number and directions of cybercrimes (Leukfeldt *et al.*, 2019). The main reason for this is the increase in the qualitative indicators of criminal acts committed when the dexterity and skill of fraudsters are higher than the same indicators of state representatives and responsible authorities. The peculiarity of such crimes is the maximum involvement of ordinary citizens (often without their knowledge and permission), so the activities to increase the level of education of the population to minimise the chances of growth of such phenomenon as victimhood in their environment, is one of the main goals of state and public policy (Wołyniec, 2018).

Victimological aspects to counter internet crime can be roughly divided into several areas (Tonellotto, 2019): legislative (development of appropriate legal and regulatory frameworks to improve the effectiveness and efficiency of the fight against cybercrime by working with victims of such offences); academic (intensification of scientific activity, expansion of the range of vectors of research work on the systematisation and classification of Internet crimes, their types, methods, specifics, peculiarities and other characteristic features); institutional (creation of structural subdivisions under state or local self-governance bodies or formation of independent structures or institutions to control, monitor, prevent and counteract crimes committed on the Internet); technical (launch of special software in enterprises or organisations, local implementation of innovative information and communication systems to protect against hacking and hacker attacks); ideological (fostering a culture of resistance to Internet crime in society by raising awareness of the importance of preventing such acts and participating in the fight against online criminals; education and awareness-raising activities among the population).

Combating cybercrime in different countries. Due to the ever-increasing number of cybercrime incidents, many governments have adopted proactive policies to prevent and counter such offences. A key feature of such actions is the extensive public participation and civic engagement in the processes of crime prevention and identification of attackers (Yokotani & Takano, 2021). This aspect of state-civil society interaction is crucial in the context of combating illegal activities on the Internet because ordinary citizens are often unknowingly and unknowingly complicit in such crimes.

Each state has its unique and innovative methods of combating online fraud. Some develop advanced systems and tools to identify criminals and carry out preventive measures (USA, European states (Notté *et al.*, 2021), while others use already proven inter-row experience (e.g., Central Asian countries) (Seidakmatov & Narmamatova, 2022). However, there is a direct correlation between the quantity and quality of ways and methods of countering Internet crime and the level of scientific and technological development in the state. Many experts in the field (programmers, sociologists, economists) note the following (Mikkola *et al.*, 2020; Borwell *et al.*, 2022): the higher the level of innovative development of the state, the more effective and qualitative it is in countering cybercrime (Table 2). But at the same time, it is more susceptible to these crimes due to the high concentration of various unique and sensitive information.

Table 2. Top countries by level of innovation development according to the Global Innovation Index, 2020-2023

Country	2023*	2022*	2021*	2020*
Switzerland	1 (67.6), 1	1 (64.6), 1	1 (65.5), 1	1 (66.08), 1
Sweden	2 (64.2), 3	3 (61.6), 2	2 (63.1), 2	2 (62.47), 2

Table 2, Continued

Country	2023*	2022*	2021*	2020*
United States of America	3 (63.5), 2	2 (61.8), 3	3 (61.3), 3	3 (60.56), 3
United Kingdom	4 (62.4), 7	4 (59.7), 8	4 (59.8), 10	4 (59.78), 9
Singapore	5 (61.5), 10	7 (57.3), 13	8 (57.8), 13	8 (56.61), 14
Finland	6 (61.2), 4	9 (56.9), 4	7 (58.4), 5	7 (57.02), 6
Netherlands	7 (60.4), 8	5 (58.0), 5	6 (58.6), 7	5 (58.76), 8
Germany	8 (58.8), 9	8 (57.2), 9	10 (57.3), 9	9 (56.55), 10
Denmark	9 (58.7), 12	10 (55.9), 12	9 (57.3), 14	6 (57.53), 12
South Korea	10 (58.6), 11	6 (57.8), 10	5 (59.3), 8	10 (56.11), 11
Kazakhstan	81 (26.7), 83	83 (24.7), 81	79 (28.6), 86	(56.11), 56
Uzbekistan	82 (26.2), 78	82 (25.3), 80	86 (27.4), 77	93 (24.54), 90
Kyrgyzstan	106 (20.2), 96	94 (21.1), 92	98 (24.5), 102	94 (24.51), 81
Tajikistan	111 (18.3), 85	104 (18.8), 84	103 (23.9), 80	109 (22.23), 77
Turkmenistan	**	**	**	**

Note: * – information for the year includes the following indicators: rank in the analysed year (total score), score for the level of knowledge & technology outputs; ** – no data available

Source: compiled by the authors based on Global Innovation Index (2024)

In the United States, which is one of the most technically advanced and innovative nations in terms of developing innovative solutions in various fields of production (3rd place among the world's countries in 2023, 2nd in 2022, 3rd in 2021 and 2020 (Global Innovation Index, 2024)), the issues of countering Internet terrorism are extremely important and high priority, as in the event of a hack, top-secret information and classified data may be leaked. The main document regulating relations in the sphere of countering various offences committed on the Internet or through online technologies is 9-48.000 – Computer Fraud and Abuse Act (1986). It is the main regulatory mechanism for preventing and combating Internet crime and describes all the different options and ways to counter and prevent it, including from a victimological perspective.

In terms of the organisation of Internet crime prevention activities, the US system is multifaceted and complementary, with many branches and different constituent structures (Mikkola *et al.*, 2020; Bjelajac & Filipović, 2021). There are several responsible bodies and units in the country, among which the key role at the state level is played by the US Department of Justice, under which there are several "subsidiary" structures that perform relevant functions at the local level in each state (Hansen & Lory, 2020). The Federal Bureau of Investigation has a special unit – Cybersecurity and Infrastructure Security Agency, created in 2018, which reports to the US Department of Homeland Security, which, in turn, considers cyberspace as one where crimes similar to those committed in real life are possible (Hawdon, 2021). CISA monitors and searches for cybercriminals monitors the Internet for new online threats and cyber fraud and provides information and services to protect the business sector and critical infrastructure from hacker attacks and unauthorised breaches of their defences (Public Law No. 115-278..., 2018). There are also many other federal agencies and services operating in the United States, including United States Secret Service, whose main functions are to protect the president of the country, family members, real estate, and privacy on the Internet (in addition, the service is engaged in training local government officials in cyber literacy and the ability to counter cybercrime at the initial stage – namely, to conduct preventive work among the population; United States Immigration and Customs Enforcement, which combats illegal migration, human trafficking, sexual slavery, including through the use of online systems and Internet tools (Hawdon, 2021) and others.

At the local level, within the jurisdiction of individual state governments, there are various centres and organisations to combat internet crime (Public Law No. 115-278..., 2018). The most widespread is the network of cybercrime centres, which consists of programmers and hacker groups searching for potentially dangerous Internet users. The activities of such centres are very productive because among their employees are specialists who were formerly cybercriminals but are now working for the state (Drew, 2020; Hawdon, 2021). This provides information on the nuances of online illicit activity and how to combat it. In addition, the state encourages the creation and development in every institution (organisations, firms, as well as schools, universities, kindergartens) of special cybersecurity control departments within the work of the individual enterprise. Thus, almost every enterprise employs specialists responsible for internal security in the online space and controlling the level of awareness of this danger among the employees of the organisation (Hawdon, 2021). This innovation has a crucial role to play when it comes to combating cybercrime in the country.

The basic principles and concepts of the direction, stipulated in the US regulatory framework, are presented in the Gramm-Leach-Bliley Act (GLBA) (1999) – on the rules of financial secrecy, which regulate the process of collection and disclosure of this information in a lawful way, as well as on security measures to minimise the chances of data leakage and dissemination of false information. Individual acts regulate activities in other areas of the online space and control decision-making processes regarding, for example, cyber blackmail, spam (Hawdon, 2021). The USA has a state-based practice of legislative activity at the level of individual states. For instance, the state of Massachusetts has adopted a special law that defines the concepts and physical boundaries of Internet offences and forms the number of fines and prison sentences for such offences exclusively within the state. Local authorities in the state of Tennessee define online harassment and ordinary harassment as the same action, accordingly, the punishment for it should also be identical and quite strict – a fine and arrest (depending on the severity of the offence) (Hansen & Lory, 2020).

The main areas of victimological prevention of Internet crime in the United States include an extremely high level of preventive action among the population, carried out both at the level of federal authorities and within individual states. This includes continuous training of both responsible employees and specialists in the field, as well as ordinary citizens, combating suspicious phenomena online, education of correct and cool behaviour in the process of online communications, filtering of any information and requests received from social networks, especially from strangers. For these purposes, society is taught to use all the possibilities of new information and communication technologies. Within the framework of cooperation between the countries of the European continent, until recently, no special efforts to jointly combat cybercrime were noted. Thus, at the beginning of the XXI century, the Council of Europe adopted the Convention on Cybercrime (2001); the Council of Europe Convention on the Prevention of Terrorism (2005), which includes provisions on various offences related to Internet activities; the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007); the Personal Data Protection Act (2008), which forms a list of unauthorised actions with personal information on the Internet and options of criminal punishment for these actions.

The aforementioned and other regulations have been applied with varying degrees of success by European countries in addressing cybercrime issues. However, since 2008, when the global economic crisis began, the protection of sensitive information, especially that related to financial and other personal data, was revealed to be a much stronger legislative basis for secrecy and other aspects of personal life. Therefore, since the beginning of the 10 years of the XXI century, European countries have been actively working together to develop new documents and regulations to combat Internet crimes. This activity reached its peak during the COVID-19 coronavirus outbreak, when almost all financial and social communication was transferred to the online sphere. Given the fact that the scientific potential of European countries remains at a very high level (for example, the UK has been ranked 4th among countries in the Global Innovation Index (2024) for the last 4 years, starting from 2020, while Germany was ranked 8th in 2023 and 2022, 10th in 2021 and 9th in 2020), the technical capabilities to fight cybercriminals are virtually unlimited, which allows for the involvement of a broad section of society in this process. Thus, amendments to the Regulation of the European Parliament and of the Council No. 2019/1020 "On Horizontal Cybersecurity Requirements for Products with Digital Elements and Amending Regulation (EU)" (2022) were made, including a list of actions mandatory for critical businesses to protect them from hacker attacks. The Act also amended the process of expanding the Internet infrastructure and regulating the rules of behaviour of different actors on the Internet (Oleksiewicz & Civelek, 2023).

The main document designed to increase the public's education on how to prevent victimisation in the online environment was the adoption of a Directive (EU) of the European Parliament and the Council No. 2022/2555 "On Measures for a High Common Level of Cybersecurity Across the Union, Amending Regulation (EU) No. 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive) (2022)", which introduces new principles and rules for the behaviour of businesses and companies, as well as individuals, on the Internet, and regulates the field of preventive and proactive work with the public in the context of combating online fraud. (Notté *et al.*, 2021; Button *et al.*, 2022). Besides policies at the pan-European level, there are also extensive efforts to combat Internet crime in individual states in the region.

The United Kingdom (UK) recognises the importance of combating cybercrime as it relates to national security, protection of citizens' rights, online freedom of expression, equality and openness. According to an independent study conducted by A. Clark (2023), every year since 2000, the number of businesses and individuals subjected to cyber-attacks has increased by 10-15% year-on-year. However, only 65% of businesses are aware that they have been subjected to fraud; the rest are unaware of it until the issue involves a significant financial loss. For instance, in 2016, a British hairdresser paid over £2,000 to online extortionists for the safety of its customers' data, while the outsourcing company Capita lost around £20 million in 2023 because its employees did not know the basic rules of online behaviour (e.g., writing down their logins and passwords for personal computers on paper and leaving them in a visible place at work or co-working rooms) (Wołyniec, 2018); Akdemir *et al.*, 2020). These and similar examples suggest that the level of education in terms of the rules of behaviour in the online environment in Britain is quite uneven and this causes serious material and image losses to the country, not to mention national security issues.

The Cabinet of Ministers (general areas of cybersecurity), the Department for Science, Innovation and Technology (implementation of legislative norms in the scientific and industrial environment), and the Ministry of Interior (monitoring and controlling potential Internet criminals) are all involved in Internet security issues (Sharma, 2020). At the level of local authorities, there are certain specialised centres for countering Internet crime (akin to similar centres in the US). The legislative field of the sphere in the UK is formed by several documents, the main and most comprehensive of which is the National Cyber Strategy (HM Government, 2022). The main objectives of the strategy are to formulate key tasks for the development of information technologies and online data protection in the coming years, to transform the country into a key fighter against Internet crime by 2030, to increase the level of citizens' education through constant open scientific events and practical training to minimise the victimisation processes of the British society, to optimise the cyber security structure by dividing responsibilities between state and local governments (Button *et al.*, 2022).

In Germany, the main responsibility for solving cybercrime lies with local authorities – prosecutors, police and other relevant institutions in the German states. For example, Bavaria has a successful Cyber Defence Platform, Hesse has a Cyber Competence Training Centre, and Cologne has a firm specialising in finding and catching dangerous hackers and internet fraudsters (Bundeskriminalamt, 2023). At the state level, the Bundeskriminalamt deals with Internet fraud, whose main tasks are to provide information on criminal cases of online crime, investigate cyberterrorism, and educate citizens about safe behaviour on the Internet (a separate unit within the agency, the Cybercrime Unit, is responsible for this) (Van de Weijer *et al.*, 2020). Following the example of other countries, Germany has a National Cy-

ber Defence Centre with many local cells in the federal states (Lee & Wang, 2024). The organisation collects and processes all kinds of information regarding the online activities of the population, searches for cybercriminals, provides information and services to legal entities and individuals regarding protection against hacker attacks. At the legislative level, Germany has adopted several acts that shape cyber policy in the country. Among the main ones is the Cyber Security Strategy for Germany (2021), which outlines the steps needed to secure the country's development and prevent the growth of Internet crimes involving ordinary Internet users. A key element of the document, which has been emphasised, is to increase the public's education and awareness of cybercrime and train them to protect themselves and their data at a basic and intermediate level of sophistication.

In the Asian region, Singapore, Japan, South Korea and others are among the leaders in terms of S&T development. The level of innovatization of the South Korean society allows us to talk about the country as one of the leaders in the region (South Korea's position according to the Global Innovation Index (2024): 10th place – in 2023 and 2020, 6th – in 2022, 5th – in 2021). The high level of technological progress makes the state extremely attractive for building and developing innovative businesses. At the same time, South Korea is the region's leader in the number of large-scale hacker attacks (International Trade Administration, 2023) (Table 3). Given its neighbourhood with North Korea, whose authorities are actively using the cyber component of terror against the South Korean population, Seoul's response is quite serious and productive.

Table 3. Cybercrime activity and characterisation of South Korean government counter-activity concerning incidents, 2000-2020

Year	Incident	Preventive measures	Legislative action (state level)
2000	–	Establishment of the Institute for National Security Studies (NSR)	–
2001	–	–	Adoption of the Law on the Protection of Information and Communication Infrastructure (PICI Law). Adoption of the Law on Electronic Government. Adoption of the Law on the Development of Information and Communication Networks. Adoption of the Law on the Use and Protection of Information
2003	Global Internet outage on 25 January	–	–
2004	–	Establishment of the National Cyber Security Centre (NCSC) within the National Intelligence Service (NIS)	Adoption of the National Crisis Management Core Directive. Establishment of a national cybercrisis management manual
2005	–	–	Adoption of the National Directive on Cyber Security Governance
2007	–	–	Amendments to the Law on Electronic Government
2009	DDoS attack on 7 July	Implementation of a national integrated response to cybercrisis	–
2010		Initiation of the cyber command structure under the Ministry of Internal Affairs	Amendments to the Law on Electronic Government
2011	DDoS attack on 4 March. Hacking into the security systems of NH Bank, a financial institution, on 4 March	Development of a National Cybersecurity Master Plan	–
2012	–	Establishment of a joint public-private and military cyberspace. Establishment of a cyber-threat response team	–
2013	Cyberattack on 20 March. Cyberattack on 25 March	Launch of a comprehensive national cybersecurity programme	–
2014	Launch of a comprehensive national cybersecurity programme	Establishment of the Cyber Security Training and Education Centre (CSTEC) at the National Intelligence Service (NIS)	–
2015	–	Appointment of a cybersecurity advisor in the Presidential Administration. Establishment of the Financial Security Institute (FSI). Adoption of measures to raise the national cybersecurity profile of the state	Adoption of the Law on the Development of the Cyber Security Industry
2016	Interpark e-commerce service hack	K-ICT convergence security strategy	–
2017	WannaCry ransomware attack. Nayana ransomware attack	–	–

Table 3, Continued

Year	Incident	Preventive measures	Legislative action (state level)
2018	North Korean hacking attack on security during the Olympics	–	–
2019	–	National Cybersecurity Strategy. National Cybersecurity Baseline Plan	–
2020	–	–	Amendments to the National Intelligence Service Act

Source: compiled by the authors based on National Security Office (2019), S.J. Kim and S. Bae (2021), K. Yokotani and M. Takano (2021), International Trade Administration (2023)

The key actors and their basic functions are outlined in several South Korean regulations, one of the most comprehensive and extensive of which is the Yoon Suk Yeol Administration's National Security Strategy (Office of National Security, 2023). The document thoroughly analyses the current state of cyber defence in the Republic, forms the main objectives (content monitoring, search for potential threats, eliminating the danger, dealing with the consequences), large-scale informing of the population about the threats of online communication, and so on. The Yoon Suk Yeol Administration's National Security Strategy (Office of National Security, 2023) also talks about strengthening international cooperation in this area, especially with the United States.

According to certain Asian and South Korean experts (Jaishankar, 2020; Yokotani & Takano, 2021; Park *et al.*, 2022), Seoul-Washington cooperation on Internet crime issues is an example to follow around the world. The number and quality of agreements signed, and the size and scope of joint activities conducted by the two countries suggest a deep level of cooperation. For example, the Strategic Cybersecurity Cooperation Framework between the Republic of Korea and the United States of America (2023) was signed, according to which the parties committed to jointly develop cyberinfrastructure, create a safe Internet space, share experience and information, and educate the population on Internet literacy. As Washington's main partner in Asia, Seoul also utilises the positive experience of the United States in the context of engaging with the public on cybercrime prevention. Internet crime prevention centres have been established in the country, and many activities are held each year to increase the online security literacy of South Korean society (Fixler & Furukawa, 2023). However, unlike the United States, in the Republic, the local government is not as autonomous in cybersecurity and ensuring the protection of national interests. Therefore, the central government has a key role in countering unauthorised acts on the Internet through the implementation of state acts, strategies and plans.

In Kazakhstan, Uzbekistan, Kyrgyzstan, Turkmenistan and Tajikistan, it is currently difficult to provide a definitive answer regarding the level of cyber defence of their government agencies and financial and economic institutions. At the national level, there are various bodies (state and private-public actors) whose main tasks are to carry out actions aimed at combating Internet crime. However, the most productive are the results of working together with international organisations through various initiatives (Tonellotto, 2019; Huang, 2020;). An example of such cooperation is a project of the Organisation for Security and Co-operation in Europe (OSCE) to intensify the scientific and educational capacity of five Central Asian states to support the sustainable development of the Internet space and successfully counter cybercrime (Erendor & Yildirim, 2022; Kakeshov *et al.*, 2023). The project consists of several phases: an initial assessment of the countries' scientific and technological capabilities and the level of training for cybersecurity professionals, training to improve the skills of these professionals and increase general computer literacy, and the development of training programmes for civilians in conjunction with trained experts from the region.

Following A. Dzhumashova (2021), as of 2021, every fourth Internet user in the country has experienced cyber fraud. Given the heterogeneous level of Internet penetration in the region (Table 4), it is possible to state that in some areas this indicator may be higher.

Table 4. Internet crime rate in Central Asian countries as of 2022

Country	Population	Number of Internet users (% of total population)
Kazakhstan	19,146,252	16,465,777 (76.6)
Uzbekistan	34,271,815	17,161,534 (50.1)
Kyrgyzstan	6,703,015	3,683,700 (55)
Tajikistan	9,898,203	3,013,256 (30.4)
Turkmenistan	6,177,955	1,562,794 (25.3)

Source: compiled by the authors based on D. Aben (2019), Internet World Stats (2024)

Due to the increasing pace of the spread of Internet technologies and the growing number of active Internet users as potential victims of cyberfraud and unwitting accomplices of online crimes, cooperation in the area of cyber security with international players such as the OSCE, the United Nations, the European Union and others is crucial for Kyrgyzstan in the context of using positive experience and implementation of certain normative legal acts, as well as norms and standards into national practice.

Considering some examples of countering cybercrime in several countries with different levels of innovative development, it can be concluded that, regardless of the level of scientific and technological capacity, every state can become a victim of offences committed with the help of online tools. However, the frequency and intensity of these crimes directly depend on the level of training and general awareness of the population about the rules of safe behaviour on the Internet. The victimisation component of a country's

cybercrime strategy is extremely important and is key to guaranteeing the security of national borders and sensitive data. Analysing the results obtained the study and analysis the specifics of policies to counter Internet crime in countries with different levels of scientific and technological capacity, it is possible to state that these countries have both common problems and their specific features and nuances. In general, several groups of general recommendations for improving the quality of interaction between actors in the field of cybercrime prevention and combating cybercrime can be suggested.

For public authorities in the legislative sector, the following should be done: develop or update national cyber security strategies to adequately respond to contemporary threats; establish a budgetary programme for equitable and fair financing of the sphere; involve international partners in the process of drafting regulations, thus strengthening cooperation with them; strengthen inter-agency cooperation within the country. Responsible officials and supervisory bodies in the sphere at the level of local authorities should be identified in the institutional sector.

Local governments should intensify research and development activities in educational institutions, and scientific organisations under their jurisdiction (academic sector); update software to minimise the occurrence of cyber-attacks and to make it easy to use all means of protection against them (technical sector); organise and conduct information events (seminars, webinars, round tables) on the opportunities and prospects of countering Internet fraud for every citizen, creating a sense of duty and responsibility in society for their behaviour in the online space (in the ideological sector).

Discussion

Studying the issues of victimological aspects of countering Internet crime in the context of analysing the activities of state authorities and representatives of local self-government, namely, what steps are taken by the country's officials to minimise the frequency of incidents related to Internet crime, some conclusions were summarised. The topic of reducing the level of victimisation processes in society by raising general awareness and teaching the rules of behaviour on the Internet, as well as through the notion and awareness of elementary preventive steps against cyber fraudsters, is extremely relevant and widely discussed at all levels of government and public control. Considering the results and conclusions of research of specialists in the field – programmers, economists, sociologists, criminologists – the following can be summarised: interest in the problem of cyber defence of the country, its financial and banking sectors, protection of personal data has increased significantly in recent decades, and this is primarily due to the rapid spread of information and communication technologies. The demand for scientific research on this topic is high, and the results of this work will determine the further development of strategies for the protection of information on the Internet, especially those related to the components of national security. Experts from Central Asian countries, Kyrgyzstan and Kazakhstan, have focused their work on the specifics of government policy on cyber activities in the region and looked at the global experience through the prism of using it to minimise the increase in victimisation. Researchers from other countries (USA, Poland, Italy) focused on analysing national strategies and plans to protect information systems from potential hacking and explored ways to engage their citizens in these activities. To summarise, it is possible to conclude that the key theses of the researchers speak in favour of the fact that shortly the situation in the sphere of cyber security will be dynamically developing, creating new threats to the national security of individual countries and their citizens, as well as entire regions. Therefore, to adequately respond to these threats, it is necessary to act together, harmoniously combining activities at all levels of collegial and sole management, creating a synergistic interaction between the citizen and the country to protect their confidential data.

The paper voiced the opinion that in the late XX century – early XXI century there was a rapid intensification of the processes of informatisation of society and the spread of information and communication technologies through the widespread use of computers, mobile applications and the Internet has become an unprecedented phenomenon in world history. J. Hawdon (2021) shares similar opinions, calling the invention of the Internet a turning point in the history of mankind, and the rapid spread of e-mail technologies, social messengers, web resources and streaming services a unique example of revolutionary transformation and the transition of mankind to a new level of development. At the same time, the author was sure that in the event of the disappearance of these technologies, which have already become part of modern man's life, nothing fundamentally catastrophic could happen, except for the long-term inconvenience of ordinary citizens due to the lack of their usual means of communication.

Online crime factors such as the transmission of massive amounts of sensitive information and access to confidential data are the reasons why the vast majority of cybercrime is committed, as identified in this paper. K. Jaishankar (2020) also agreed with this, in whose opinion Internet blackmail, online extortion and other similar illegal actions are the main types of Internet crimes and for which the perpetrators should be seriously punished. At the same time, the expert expressed doubts about the appropriateness of further singling out cybercrime as an atrocity, explaining that the same offences are committed in real life without the use of computer technology.

The increased victimisation of society, regardless of the country, its level of economic and political development, and the quality of its scientific and technological capabilities, is a key factor shaping the extent of cybercrime for that state (Hasanova *et al.*, 2023). This idea voiced in the paper was also considered a fair statement by S. Park *et al.* (2022), who believed that today, to develop adequate strategies for the development of cyber security policy of the state, it is necessary to address the human factor and its impact on all spheres of activity of collegial and sole representatives of public authorities without exception. When considering the situation in South Korea, the experts argued that in this case the level of interaction between society and the government is maximised and the vulnerability of individuals to computer crimes is minimal, precisely because of the thorough and verified preventive activities of government agencies.

The essence of the influence of criminal methods on the individual in the context of increasing personal susceptibility to victimisation lies in many factors, among which are: the need for communication, the desire to exchange interesting information, the search for new acquaintances and the establishment of friendly or professional ties (Saliu *et*

al., 2022). R. Notté *et al.* (2021) share the opinion, calling such human desires the reason for the intensification of Internet crime in the 21st century and the main factor contributing to the active actions of cybercriminals, who exploit the human tendency to unknowingly commit illegal acts for their criminal purposes. Although the authors were confident that, through carefully designed policies and the joint efforts of central and local authorities, the victimisation of the population could be mitigated and thus Internet crime could be minimised.

The aspect of state involvement in addressing the protection of citizens and their data on the Internet was identified in the presented work as an important and indispensable condition in the fight against cybercrime. C.S. Lee and Y. Wang (2024) also referred to the synergy between the country's governing bodies of different levels of influence – central and local – as a key foundation for the prevention of unauthorised activities on online platforms. At the same time, however, the authors argued that it is not necessary to initially separate victims and perpetrators, as the state itself may, through its rash and harsh decisions, incite potential victims of crime to assist perpetrators, already consciously.

In the process of studying the topic of formation and development of policy in the field of cyber defence and protection of personal data on the Internet through, among other things, active involvement of the population in preventive and proactive processes in this area, some aspects have been identified. Analysing the vectors of research and the conclusions of scientists based on their scientific studies, it is possible to conclude that worldwide interest in obtaining detailed information on the subject under study, especially in the context of preventive measures of cyber data protection, is high. The main factor that makes the state authorities deal with data protection issues in the online sphere is the risk of leakage not only of personal content of ordinary citizens but also the loss of sensitive information of an economic or political nature (Rafalskyi, 2023). Therefore, most countries have recognised this problem and have identified areas that need to be urgently addressed. This includes minimising the victimisation of the population by using all opportunities and mechanisms available to accomplish this task. Because countries have different levels of scientific and technological potential and the development of advanced technologies is uneven, it is possible to state that the level of innovation of society depends on the intensity of hacker attacks against the state. At the same time, the lower the level of education of the population in terms of information and communication technologies, the higher the probability of the inability of such a country to adequately respond to online crimes against them (Horoshko *et al.*, 2021). Identification of key components, possible directions and vectors of development of the sphere of cyber protection of state data is an essential condition for the harmonious development of the country and its citizens, formation of a national security strategy taking into account all possible challenges and threats with maximum participation of civil society to minimise victimisation processes among its most vulnerable members.

Conclusions

Studying the characteristics and specifics of countering Internet crime in countries with different levels of scientific and technological development through the prism of analysing the likelihood of the impact of the victimisation characteristics of civil society on these crimes, some conclusions were made. It was found that the problem of the relationship between the psychological characteristics of a person unconsciously falling under the influence of attackers and the dynamics of growth of illegal actions with their help does exist, and this problem became especially relevant in the early XXI century when the population began to increasingly use the tools of the Internet, communicating through social networks and online messengers.

The level of scientific and technological progress of the state was identified in the study as one of the key factors contributing to a more effective fight of this state against cyber criminals and for very effective preventive and educational work with the population to increase their level of education and understanding of the rules of safe behaviour on the Internet. At the same time, the high level of innovation in sectors of government such as the economy, social services, banking and finance makes them desirable targets for Internet fraudsters, as the high level of digitalisation and informatisation of these areas means that all critical information is gathered in one place and stored in a single array, making it easier to steal.

In recent decades, starting from the late 1990s, the number of offences committed with the help of online tools has increased manifold. This fact is confirmed by the fact that during this period the volumes of financial losses of large enterprises and corporations amount to billions of dollars, although at the end of the twentieth century, the scale of economic losses was much smaller. The main reason for this situation is insufficient preparation of the population for this type of incident and the low level of general computer education in the sphere of self-protection and safe behaviour on various services on the Internet.

Minimising victimological processes in society, educating the population to adequately respond to suspicious actions in cyberspace, and the ability to protect their data in the online environment are key objectives in most strategies and plans for the development of cyber defence of the state and its interests. An important condition for the achievement of these goals is harmonious cooperation between the central government and local government representatives in the context of reasonable division of responsibilities, planning of joint activities, monitoring and timely identification of threats and dangerous trends. However, the future development of the sphere of countering Internet crime remains uncertain due to the unstable situation in the modern geopolitical space and the lack of a stable psychological basis for the healthy development of states and societies in them.

To provide a more accurate and thorough analysis of the specifics of combating Internet crime, to develop mechanisms to minimise the victimisation of society and to improve the quality of the results obtained, a study of the methods of combating illegal cyber activities in Central Asian countries in the context of comparing the policies of their government agencies seems appropriate for the next research.

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Conflict of interest

None.

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Віктимологічні аспекти протидії інтернет-злочинності: діяльність державних органів влади та місцевого самоврядування

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Анотація. Глобалізація є причиною зростання рівня тривожності, фізичної втоми, психологічних проблем, що послаблює можливості людини протистояти посяганням на себе, особливо, в інтернет-середовищі – домінуючій сфері для комунікації. Мета полягає в окресленні векторів взаємодії держави та потенційних жертв злочинів в Інтернеті шляхом аналізу діяльності суб'єктів напряму в країнах із різним науково-технічним потенціалом. Методами дослідження були статистичний, за допомогою якого зібрано якісні та кількісні показники розглядуваного питання, та порівняльний аналіз, використовуючи який зіставлено елементи державної політики у сфері протидії кіберзлочинності. Інтенсивність злочинів, скоєних за допомогою інтернет-інструментів, зростає з кожним роком, і пов'язано це, насамперед, зі зростанням можливостей здійснювати різні фінансові, соціальні та інші види взаємодії в онлайн-просторі. Однак існує прямий взаємозв'язок між кількістю кіберзлочинів і рівнем науково-технічного розвитку тієї чи іншої країни. Згідно з Глобальним індексом інновацій, одними з найбільш інноваційно розвинених держав є Сполучені Штати Америки, Велика Британія, Японія, інтенсивність розвитку наукового прогресу яких у кілька разів перевищує аналогічний процес у менш розвинених державах, наприклад, у регіоні Центральної Азії. Роль і місце державних органів щодо запобігання інтернет-злочинам вкрай складно переоцінити, адже саме центральне та місцеве управління має провідні позиції в питаннях розроблення превентивних заходів із профілактики та мінімізації такого явища як віктимізація суспільства в інтернет-просторі. Розрізнення та розуміння видів і напрямів злочинів в онлайн-середовищі необхідне для створення ефективного механізму боротьби з такими злочинами та розробки дієвих інструментів для прищеплення здорового способу життя людини з метою запобігання розвитку в ній віктимних рис. Результати роботи можуть використовуватися як практична база для подальших досліджень за темою – розробка державних стратегій боротьби з кіберзлочинами

Ключові слова: колегіальне та одноосібне управління; права людини; науково-технічний потенціал; колегіальні та одноосібні представники публічної влади; хакерські атаки; Глобальний індекс інновацій; протидія інтернет-злочинності

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Inequalities in the labour market: A legal perspective on causes and solutions

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Abstract. The efficient functioning of the labour market is impossible without ensuring equal opportunities for all agents involved in the system of labour and economic relations. It is especially important to study the role of the state in this process as the main regulator of social relations. The purpose of this study was to analyse the possibilities of preventing inequality in the labour market with the help of legal instruments, in particular legislation. The main research methods used were analysis, modelling and forecasting. The study examined the dynamics and global trends of labour market inequality, emphasising the changes resulting from globalisation and liberalisation. It also assessed the impact of migration on employment, particularly in view of the movement of people from war-torn regions. To describe the current trends, supply and demand in the current labour market were studied. The legislation of North Macedonia was assessed in the context of combating inequality and discrimination in the labour market. It is concluded that, despite the existence of a certain set of laws and acts, there are still problems related primarily to gender discrimination. Certain recommendations are offered to improve the situation both in the legal framework and in some other areas: economic, social, and cultural. It was concluded that the use of a comprehensive policy, the key approaches to which were proposed in this study, would achieve significantly better results in terms of ensuring equality in the labour market in North Macedonia. The findings can be used to improve public policies and legislation to combat labour market inequality in North Macedonia. In addition, the information described can also be used by entrepreneurs to create long-term development strategies

Keywords: macroeconomics; modelling; legislation; entrepreneurship; public policy

Introduction

Unemployment is a problem for countries around the world, affecting the macroeconomy on a broader scale and the standard of living and quality of life of citizens at the micro level. This factor plays a crucial role in determining the overall well-being and security of a country. It is shaped by a variety of economic, social, and political factors. The effectiveness of confronting unemployment depends on legislative measures, labour force training and mobility, and policies aimed at promoting employment, especially for social groups facing discrimination or problems of access to the labour market for various reasons. The global economic crisis and recession associated with the COVID-19 pandemic has had far-reaching effects, causing massive job losses and business closures around the world. This includes the

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EU countries known for their prominent level of economic development, as a rapid increase in unemployment rates was observed there. In the Republic of North Macedonia, the high unemployment rate was caused, among other things, by the difficult "transition" period, which started with the dissolution of the Union of Soviet Socialist Republics and entailed substantial social changes, including shifts in values, property relations, and political systems. The current high unemployment rate reflects the difficult social and economic situation, exposing the constraints in providing basic conditions for residents and the difficulties in implementing effective macroeconomic policies. This situation creates a sense of dissatisfaction, especially among the younger generation, potentially reducing their motivation for further development and education.

High unemployment contributes to economic instability, leading to problems such as inflation, deficit spending and problems in international economic relations (Havryliuk & Bozhydarnik, 2023). It also causes the development of shadow economy, adversely affecting the development of the country. Economic instability, coupled with rising crime and corruption, discourages domestic and foreign investment (Blikhar *et al.*, 2022). Moreover, high unemployment devalues labour in the labour market, creating opportunities for exploitation. Demographically, this has dangerous consequences, such as increased migration abroad, especially among young people, leading to lower birth rates, negative population growth, ageing populations, and declining marriages. Inequalities in labour markets, particularly those related to gender differences, have become increasingly apparent recently. Even though in many occupations women can perform the same tasks as men, income and employment inequalities exist in a certain way in all countries (Ryskaliyev *et al.*, 2019). Such trends are one of the causes of economic instability in the world and require finding methods to address them. Thus, the study of this problem is relevant. This study focused on finding legal methods to confront inequalities in the labour market using the case of Northern Macedonia.

Many scientists have been investigating the general features of the economic development of the country and specifically its labour market. A. Nikoloski (2020) described the current state of Northern Macedonia, especially focusing on the influence of state intervention on its development features. D. Nikoloski (2019) studied gender pay differentials in the country. The scholar considered the reasons for such a wage gap in detail, focusing on economic and political components, but not on legal ones. The scholar also assessed the state of poverty and employment in the country (Nikoloski, 2020). He noted the factors affecting the growth of unemployment in the labour market as well as the poverty rate among the population and how these factors are interrelated. In this regard, changes to the country's public policy in this area were proposed, but little attention was paid to changes in the legislative framework. E. Tosheva *et al.* (2021) examined the specific features of women's entrepreneurship in North Macedonia. Scholars have written about the social norms and discriminatory laws that restrict access to finance for women to run businesses. Based on this, they offered recommendations for changes in public policy to improve the situation. S. Abduli *et al.* (2022) addressed labour market issues related to gender inequality. According to scholars, there is a significant age and gender disparity in the country, which can be addressed through government intervention, formation of appropriate agencies, and programmes to support women.

The research conducted by S. Mahata *et al.* (2023) offers an examination of a comprehensive economic model that encompasses four sectors and considers the inclusion of both male and female labour, as well as distortions in the capital market. The current emphasis on comprehending the consequences of social transition on female labour force participation and gender-based wage disparity is both timely and pertinent (Shubalyi & Yefimov, 2023). The authors offer detailed and subtle observations regarding the dynamics of wage inequality based on gender and the participation of women in the labour force at various stages of social transformation. Through an examination of the interaction between these factors, the study provides a more thorough comprehension of the intricate correlation between economic and social transformations.

J.C. Lopez and T. Morita (2023) present an economic geography model that effectively tackles the complex problem of inequality, encompassing both interregional and intraregional disparities, with a sophisticated and perceptive approach. By incorporating workers with diverse skills and varying rates of mobility, the analysis gains greater complexity, enabling a more thorough comprehension of the factors that contribute to inequality. Furthermore, the authors examine the intricate correlation between regional disparities and their influence on the increase in wages for skilled workers. The skill premium concept offers a comprehensive perspective on the dynamics of inequality by considering both the disparities within a region and the variations in the well-being of unskilled workers across different regions. This approach is especially valuable for comprehending the diverse facets of inequality that may exist within and among regions.

Since scholars generally pay rather little attention to how the situation of labour market inequality in North Macedonia can be improved through legal instruments, the purpose of this study was to show legal mechanisms and methods for confronting this problem.

Materials and methods

The main source of data for the analysis of the legal framework on employment inequality was the Labour Relations Law (2022) of the Republic of Macedonia. Its purpose is to regulate labour relations based on a labour contract between employees and employers by means of the provisions of the law, its individual articles. It should also create an environment for employees in which they are involved in the work process, while their work, rights, and interests are harmonised with the employer. The law applies to employees of various entities, including state bodies, local governments, state-owned enterprises, and defines the conditions for the termination of labour relations: both parties are obliged to exercise agreed rights, fulfil duties and responsibilities. It is limited to the territories of the Republic of North Macedonia and, in some cases, when employees are temporarily assigned to work abroad. The law also applies to labour relations involving employers from the EU and outside the EU when employees work in the Republic of North Macedonia. It also applies to workers sent for temporary work in North Macedonia based on foreign labour contracts. For the purposes of the study, information from Articles 6, 7, 8, 9, 10, and 24 of this Law was used, as their data characterised

the problems of inequality in the labour market. Data from reports of some international organisations, notably The World Bank (2018) were also used.

The study also constructed models of the labour market in the long run and short run, which differ in the features of changes in the direct labour supply. In these models, the standard horizontal line is the quantity of labour (E) and the vertical line is the wage (W), whereas in the commodity supply and demand models – the volume of output (Q) and its price (P), respectively. In modern conditions, the labour market has become much more complex because labour itself has become more differentiated, like the production. Thus, this model should not be used to characterise the labour market for the entire country, but for specific industries (e.g., the market for design or IT services).

Different methods were used during the study. Thus, the analysis provided an opportunity to consider a large amount of data, both qualitative and quantitative, to form conclusions about what labour market inequalities are in North Macedonia and how the situation can be remedied. The historical method was also applied, which helped to assess past trends in a given market in the country, establishing a cause-and-effect relationship with its current state. Simulation was used to generate long- and short-term labour market models. The graphical method was used for their direct construction. Forecasting was used to assess future trends in the labour market in the country.

Results

Labour market dynamics have intensified due to population migration caused by a range of factors. The current large-scale migration involves refugees from war-torn regions such as Syria, Iraq, Afghanistan, and Ukraine, as well as "economic migrants" from places such as Senegal, Libya, and Nigeria. The impact of this migration on the labour market, potentially leading to cheaper labour, is uncertain. In the labour market, sellers (those offering jobs) and buyers (those looking for work) operate in a mutually beneficial transaction. The labour force is an active population, including the employed and unemployed, whose characteristics are determined by the ability to create value and order under the influence of social development and training (Eisenbarth & Chen, 2022; Lavetti, 2023). Thus, although the labour market has certain specific features, it generally functions according to the same laws as any other: employers (depending on the theory – nominal or real) and employees (the quantity of labour force) make up the demand. Given that the unemployment rate depends on the level of wages, it also changes due to inflation: the higher the level of inflation, the lower the unemployment rate should be, and vice versa. This dependence is explained by the fact that due to the growth of inflation the population's accumulation decreases its purchasing power faster, so that they are forced to look for a job faster (Larue, 2020; Fiers, 2023). Accordingly, this dependence works the same way in the opposite direction. The labour market supply and demand model can be depicted as presented in Figure 1.

As Fig. 1 shows, the model does not practically differ from the standard supply and demand model, except for the fact that instead of the P (Price) scale there is a wage scale W, and instead of the volume of product supply (which is most often denoted as Q) there is the quantity of labour. However, some specific features are observed, namely, in the short term, as noted in Figure 2. As Figure 2 shows, in the short-term, the supply straight line on the interval from 0 to O has a similar appearance to the one before the straight line. This is because in the short-term, the price of labour (wages) is not elastic to decline. In other words, in the long-term, tendencies to its decrease are possible due to certain economic circumstances, but in the short term, such a process can occur for a rather long period of time, which affects the work of enterprises and should be considered when forming the policy of the state and the company.

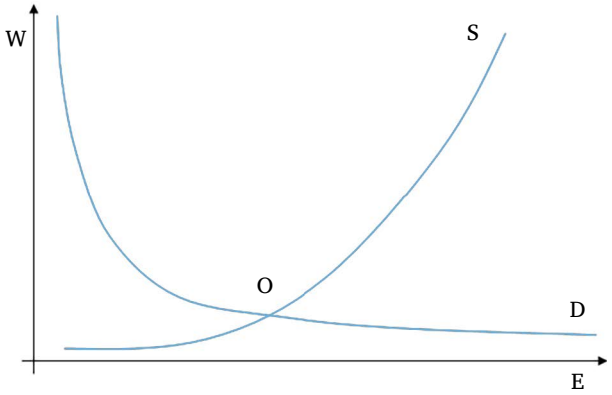

Figure 1. Labour market supply and demand model
Note: D – Demand; S – Supply; O – equilibrium point; E – quantity of labour; W – wages (real or nominal depending on the school)
Source: compiled by the authors

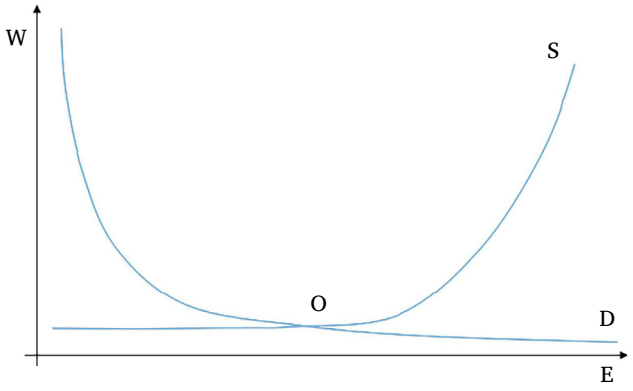

Figure 2. Labour market model in the short term
Source: compiled by the authors

Economic development can be observed at three geographical levels: local, national, and global. Achieving absolute equality in development at all these levels is virtually impossible: while such differences may be considered natural and useful, it also raises many issues. Recent trends associated with globalisation and economic liberalisation have only exacerbated problems of inequality, especially to the detriment of the poor (Hutter & Weber, 2022; Garcia-Louzao & Ruggieri, 2023). At the global level, there is a tendency to cluster around economic and politico-military capital. The emergence of regional disparities can be explained by various factors, including natural conditions, urbanisation, well-developed infrastructure, proximity to markets, institutional stability, social, traditional and cultural characteristics of the population, and ethnic, religious, or political

divisions within a country. Key factors concentrating economic activity in regions include knowledge diffusion, open markets for specialised knowledge, and linkages with suppliers and buyers. The economic consequences of capital concentration in a geographical region are diverse: it affects demography in the form of depopulation and ageing, causes poverty and underutilisation of economic potential, exacerbates social inequalities, increases social tensions, creates conditions for discrimination, violates human rights de jure, and contributes to political discord and potential abuses of power in regions with limited employment opportunities. These implications emphasise the complex and multifaceted nature of regional differences and their impact on various aspects of society.

Preventing inequality or discrimination in a country's labour market can be done in a variety of ways. One of them is the creation of suitable legislation. Considering inequality in terms of legislation in North Macedonia, it is given enough attention in labour law. For instance, Article 6 of the "Labour Relations Law" (2022) describes the principles of the prohibition of discrimination. Employers are obliged not to treat job applicants (referred to as job seekers) or employees unfairly based on various criteria such as race, colour, gender, age, health or disability, religious or political beliefs, trade union membership, national or social origin marital status, property and financial status, sexual orientation, or other personal circumstances. Furthermore, Article 6 emphasises equal opportunities and treatment of women and men in various aspects of employment, including approach to employment, working conditions, equal pay for equal work, occupational welfare schemes, working leave, working hours and dismissal, contract. The principle of equal treatment expressly prohibits both direct and indirect discrimination.

Subsequent Article 7 sets out the rules concerning direct and indirect discrimination in relation to Article 6. The prohibition against discrimination set out in this article applies to both applicants and employees. Direct discrimination includes any action on the grounds referred to in Article 6 which treats a person less favourably than others in similar cases (Western & Sirois, 2019; Dauth *et al.*, 2021). Indirect discrimination occurs when a seemingly neutral provision, criterion, or practice places an applicant or employee at a greater disadvantage because of certain differences, statuses, orientations, or beliefs referred to in Article 6. The law prohibits discrimination in various aspects, including employment requirements, promotion, access to training, working conditions, employment rights, termination of employment contracts, and rights in employee and employer associations, or other professional organisations. Provisions of collective agreements and employment contracts that imply discrimination on the grounds referred to in article 6 shall be invalidated.

The following Article 8 sets out the exceptions to the prohibition of discrimination, stating that distinctions, exclusions, or priority in a particular job shall not be considered discriminatory if the relevant characteristics are crucial to the job and pursue a balanced and justifiable objective. Article 8 also states that measures prescribed by law, other regulations, collective agreements, and labour contracts aimed at protecting certain groups of workers, such as persons with disabilities, older workers, pregnant women, parents and adoptive parents, are exempt from being labelled as discriminatory. It is noted that employees with fixed seniority should not be treated less favourably than employees with indefinite seniority solely based on their employment contract unless there are objective grounds. Furthermore, the article emphasises that the period of acquisition of qualifications for concrete conditions should be the same for both fixed-term and open-ended employees, unless the period of acquisition exceeds the term of the fixed-term employment contract (Labour Relations Law, 2022).

Article 9 of the "Labour Relations Law" (2022) prohibits stalking and sexual harassment, classifying them as forms of discrimination under Article 6. Harassment is defined as any unwelcome behaviour intended to violate the dignity of an applicant or employee, cause fear or create a hostile, humiliating, or offensive environment. Sexual harassment includes verbal, non-verbal, or physical conduct of a sexual nature intended to violate the dignity of a complainant or employee, leading to fear or creating a hostile, humiliating, or offensive atmosphere. Article 9 deals with psychological harassment (mobbing), prohibiting all such harassment in the workplace. Psychological harassment is also considered discrimination and involves repeated negative behaviour over a period of at least six months that attacks the dignity, integrity, image, and honour of employees, provokes fear or creates an unfriendly, humiliating, or offensive atmosphere with the potential aim of terminating employment or calling for resignation. Article 10 states that in cases of discrimination under Article 6, the applicant or employee shall be entitled to claim damages, which may vary according to their amount. Finally, Article 24 emphasises gender equality in the advertising of vacancies. It states that employers should not advertise vacancies exclusively for one gender unless the particular gender is crucial to the vacancy. Furthermore, advertising that suggests gender preferences in hiring is prohibited unless it is consistent with a specific list of job openings, which is also described in this document.

Although there is a legal framework in the Republic of North Macedonia that should prevent inequalities in the labour market, in reality these problems are still relevant. The country has a growing gender income gap: from around 10-12% in the 1980s to 15.3% in 2010 and 17.2% in 2015 (The World Bank, 2018). Factors contributing to the gender wage gap include both lack of incentives for women to work (due to gender stereotypes and cultural traditions) and discrimination by employers. Research suggests that discrimination explains only one-third of the adjusted gap, with most of it explained by unobserved differences between the genders. The pay gap is gradually widening along with the way wages are rising. Notably, this effect is less marked for mothers, or may not be present at all. The persistence of the gender wage gap at higher income levels points to the need for more effective government efforts to promote gender equality.

The World Bank report on labour market inequality in Northern Macedonia recommends the adoption of laws that promote gender equality, proper implementation of protective laws, and concrete measures to improve women's access to assets and productive resources (von Wachter, 2020; Berghammer & Adserà, 2022). Furthermore, support services can improve the situation in this matter. It is recommended that women's education, promoting gender perspectives in agreements, investing in public interventions and adult education, providing flexible forms of employment, expanding childcare networks, reviewing parental leave policies, modernising elderly care services, and reinvigorating policies for poor women be taken more seriously. It is also recommended

to remove disincentives in tax and benefit systems, provide training programmes for women, and promote a family culture in the workplace. To promote women's entrepreneurship, it is recommended to strengthen support for start-up programmes, mentoring initiatives, and local ownership information. Initiatives to influence culture, norms, and aspirations include organising public campaigns against stereotypes, raising career aspirations through role models, and supporting a culture of gender equality throughout society.

Overall, all the recommendations described above can truly eliminate discrimination in the labour market against women. For this to happen, however, their application must be comprehensive. As described earlier, there are several laws in North Macedonia which should ensure that there is no discrimination regardless of race or gender in the labour market. To counter discrimination more effectively, it is worth recommending strengthening existing rules in this area. The parameters for Article 7 need to be regularly updated and tightened to determine whether an action is discriminatory or not. The same applies for other articles, e.g., it is worth defining criteria in Article 8 for understanding when characteristics are "job-critical" and have a "balanced and justifiable purpose"; it is worth clarifying the definition of harassment and sexual harassment in Article 9. Furthermore, care should be taken to ensure that the process for obtaining redress in cases of discrimination described in Article 10 is also sufficiently simple and accessible to the public.

Discussion

To address labour market inequalities, North Macedonia will have to introduce certain changes in its development strategy. The changes described above should be applied in a holistic manner to have the greatest effect. Legislative changes will only have an impact after some time due to the rather lengthy process of writing laws, developing them, and implementing them. Thus, in the short term, other mechanisms should work to improve the situation in the country. Specifically, it is worthwhile to secure the interconnection between public authorities, enterprises, and the public. This can ensure joint work to solve this problem and lead the country to the proper results.

O. Folke and J. Rickne (2022) considered the gender inequality in the labour market. Their study concludes that sexual harassment in the workplace serves as a serious barrier to gender equality, particularly affecting gender minorities in the workplace and contributing to gender segregation and the gender pay gap. Based on Swedish data, it was proved that women tend to be more likely to be sexually harassed. Nevertheless, the analysis links men's victimisation to their work in female-dominated workplaces. Scholars point to a persistent pattern of sexual harassment and gender segregation in parts of the labour market. Furthermore, scientists note that about 10% of the income gap between men and women is explained precisely by the fact of sexual harassment. The study highlights the business case for preventing sexual harassment, revealing its potential costs to firms in terms of reduced job satisfaction, increased employee turnover, and damaged reputation in the workplace. It is therefore vital to prevent such harassment to increase employee welfare, reduce turnover costs, and improve HR processes in general. It was showed previously that there are factors affecting gender-based income inequality in North Macedonia, although sexual harassment was not the main cause. Nevertheless, given the importance of this component in income inequality, it is worth considering additional measures related to strengthening measures to curb attempts at sexual harassment in the country.

M. Reichelt *et al.* (2020) investigated the impact of COVID-19 on gender inequality in the labour market. Researchers pointed out that women were more severely affected by the labour market effects of COVID-19 than men. As it turned out, the unemployment rate increased more among women, and they were more likely to receive a reduction or decrease in working hours. Although the initial gender differences in unemployment can be attributed to the higher prevalence of atypical working conditions (such as part-time work) among women, the researchers concluded that gender roles in society proved to be the main cause of these trends. Analysing the situation in North Macedonia, comparable results were found for the causes of inequality in the labour market: it is gender stereotypes and cultural characteristics that most often cause women to earn less than men. To prevent such problems, it is worth applying both legal instruments and influencing social attitudes in the country.

L. Litman *et al.* (2020) examined pay inequality in the online labour market. They investigated the gender pay gap on Mechanical Turk's online platform over an 18-month period involving five million tasks completed by more than 20 thousand unique workers. Contrary to expectations due to the unique characteristics of the platform, there was a consistent gender pay gap of 10.5%, with an average estimated actual wage of $5.7 per hour. The gender pay gap (up to 57%) was partly explained by differences in task speed, but other factors such as gender differences in task selection based on advertised pay also played a role. Despite accounting for various factors, the pay gap persisted, challenging conventional explanations of the gender pay gap. In other words, on a platform with a level playing field for women and men, the former preferred to work less and take on less challenging projects. This indicates that the reason for this difference in pay may be due in part to the psychological characteristics of women, which may arise due to various factors, including upbringing (Protosavitska, 2023). No such factors were noted in the study on the assessment of the situation in North Macedonia, but they should also influence the overall situation in the country. Thus, it is vital to create favourable conditions for women's future employment from the time of school and pre-school education.

J. Wursten and M. Reich (2023) studied the racial inequality in unstable labour markets based on data from the USA. In the study, the authors conducted the first causal analysis of the impact of state and federal minimum wage policies in the United States on labour market discord and racial wage disparities. Using a variety of methodologies, including complex event studies and panel difference-in-differences estimates, the study found that minimum wage formation increases the wages of black workers 16-64% more than white workers, resulting in a 10% reduction in the overall ratio of the black-white earnings gap. The study excludes racial differences in initial wages as an explanation and proposes a model with labour market inconsistencies where minimum wages increase employment opportunities, especially for black workers. The results support the view that the minimum wage increases commuting and employment opportunities for black workers, helping to reduce the racial wage gap. The paper also considered opposite scenarios and

other aspects such as employment and population groups by age and gender. In conclusion, despite the growing racial wage inequality, the study suggested that minimum wage policies have effectively reduced the racial wage gap. The study of the labour market situation in North Macedonia did not observe income disparities by race, which may be explained by the fact that the country has a predominantly indigenous population. Nevertheless, it is essential to further consider possible income disparities by race to examine the need for additional laws related to combating discrimination in this context.

P. Barbieri and F. Gioachin (2022) investigated inequalities related to social origin in Italy and Germany. Researchers have shown that in Italy, such workers benefit from being in a good position in the labour market even if they are less skilled than other labour market participants. In Germany, such workers can get better jobs earlier, at the expense of having a wage premium over others. In other words, workers who had better backgrounds were able to earn higher incomes than their competitors (Bocheliuk *et al.*, 2022). The study has not previously mentioned such causes of labour market inequality, but they do occur and are extremely difficult to regulate. While it is not legally possible to prohibit the hiring of an employee, a possible mechanism is to increase surveillance of nepotism and similar behaviour in society. To counter this problem, more attention should be paid to the specific cultural features of the population's behaviour in society and to changing their moral attitudes.

Overall, labour market inequality is a pervasive problem in the global labour market. Organisations such as NATO and the European Union also pay attention to this, trying to prevent their expansion and emergence due to global geopolitical processes. The problem is relevant in North Macedonia as well. The current legislative framework, while partially preventing discrimination in the labour market, is insufficient to address the likely future aggravation of the situation. Thus, it is still relevant to improve the existing legislative framework, as well as to apply other methods of combating inequality described earlier. This will considerably improve the situation in the labour market and solve many difficulties associated with it.

Conclusions

The study examined labour market dynamics, focusing on population migration and economic development at different geographical levels. The study described trends related to large-scale migration involving refugees from conflict-ridden regions, as well as other causes of mass displacement. It can be concluded that such global trends may lead to significant changes in the labour market in North Macedonia in the long term, for which the local public authorities should be prepared. Among other things, it may lead to increased discrimination in the labour market against national minorities, other races, as well as lead to gender inequality. The study described the operating models of this market and highlighted their main differences from conventional markets.

The example of North Macedonia highlighted the key role of legislative measures in combating inequality and discrimination in the labour market and preventing the emergence of these phenomena. Despite the existence of a legal framework, there are issues related to discrimination, particularly in terms of gender differentiation. It was therefore concluded that it was essential for the country to enact and strengthen laws that promote gender equality, ensure their proper implementation, and take concrete measures to increase women's access to assets and resources. Furthermore, it is relevant to improve the quality of women's education, as well as to influence the cultural attitudes of society that favour women's work.

The study focused on what changes should be made to the legislation to improve the situation in terms of inequality in the labour market. A more robust approach is suggested by tightening the parameters of existing laws, such as those defining discriminatory actions and defining critical characteristics for employment. The study concluded that clear definitions of terms such as sexual harassment and others need to be established to ensure fair punishment for breaches of the law. Furthermore, it is vital to ensure that enterprises or organisations do not allow any inequity in pay between women and men in the same positions.

It is relevant for future research to propose other possibilities for preventing the emergence of discrimination in the labour market of North Macedonia, not related to changing the legal framework.

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Conflict of interest

None.

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Нерівність на ринку праці: юридичний погляд на причини та шляхи вирішення

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Анотація. Ефективне функціонування ринку праці неможливе без забезпечення рівних можливостей для всіх агентів, включених в систему трудових та економічних відносин. Особливо актуальним є вивчення ролі держави в цьому процесі як головного регулятора суспільних відносин. Метою цього дослідження було проаналізувати можливості запобігання нерівності на ринку праці за допомогою правових інструментів, зокрема законодавства. Основними методами дослідження були аналіз, моделювання та прогнозування. Дослідження вивчало динаміку та глобальні тенденції нерівності на ринку праці, підкреслюючи зміни, які є результатом глобалізації та лібералізації. Також було оцінено вплив міграції населення на зайнятість, зокрема з огляду на переміщення громадян із охоплених війною регіонів. Для опису поточних тенденцій було досліджено попит та пропозицію на сучасному на ринку праці. Законодавство Північної Македонії було оцінено в контексті боротьби з нерівністю та дискримінацією на ринку праці. Зроблено висновок, що, незважаючи на наявність певного комплексу законів та актів, все ще існують проблеми, пов'язані насамперед із гендерною дискримінацією. Запропоновано певні рекомендації щодо покращення ситуації як у нормативно-правовій базі, так і в деяких інших сферах: економічній, соціальній, культурній. Було зроблено висновок, що використання комплексної політики, ключові підходи до якої були запропоновані у цьому дослідженні, дозволить досягти значно кращих результатів з точки зору забезпечення рівності на ринку праці Північної Македонії. Отримані результати можуть бути використані для вдосконалення державної політики та законодавства для протидії нерівності на ринку праці в Північній Македонії. Крім того, описана інформація також може бути використана підприємцями для створення довгострокових стратегій розвитку

Ключові слова: макроекономіка; моделювання; законодавство; підприємництво; державна політика

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Theoretical aspects of improvement of society-business-government cooperation in the context of European integration

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Abstract. Accession to European structures requires the Ukraine to implement reforms in various areas, including politics, economy, human rights, and democracy. Interaction between the government, business and civil society in this context is becoming key to the successful implementation of reforms and achievement of European Union (EU) standards. The main purpose of this study was to analyse, evaluate, and develop recommendations for the effective improvement of the mechanisms of interaction between the actors of the government-business-civil society system in the context of European integration processes. The research methods included a systematic approach, structural-functional, and deductive methods. The paper provides an overview of the current challenges and opportunities arising from globalisation and European integration, which require profound changes in the system of interaction between government, business, and civil society. The study investigated the role of non-governmental organisations (NGOs) in decision-making and implementation, the role of business in promoting sustainable development, and the activities of the authorities in the context of considering the interests of citizens. The paper discussed the main principles and approaches to improving the mechanisms of interaction between government, business, and civil society. The emphasis was placed on the importance of transparency and openness of all stakeholders to the management and

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decision-making process. The study found viable models of cooperation that balance the interests of various parties and contribute to sustainable development. The study also analysed the practices of European countries regarding the mechanisms of interaction in the system of "government-business-civil society" in the context of European integration. The practical significance of this study lies in the development of concrete recommendations for policy actions aimed at strengthening the interaction between government, business, and civil society in the context of European integration. In general, the research and implementation of recommendations for improving the mechanisms of interaction has the potential to positively affect the multifaceted development of society, political stability, economic development, and contribute to the achievement of European standards and goals

Keywords: reform; entrepreneurship; cross-sectoral collaboration; public opinion; globalisation

Introduction

European integration opens new opportunities for economic development and foreign investment. Ensuring favourable conditions for business requires effective interaction between the government and business, as well as ensuring fair competition and promoting democracy, human rights, and civil society. Active involvement of citizens and their influence on decision-making is an essential aspect of this process. The study of the mechanisms of interaction helps to ensure greater citizen involvement in decision-making and control over government activities. In general, the subject of studying and improving the mechanism of interaction in the system of "state-enterprise-citizen" in Ukraine in the context of European integration is key to improving governance, reforming society and achieving the standards required by the European integration path.

Most authors usually limit themselves to particular sectoral aspects of this interaction or analyse the cooperation of only certain civil society institutions with the government or business. Some scholars pay special attention to the aspects of interaction between local executive authorities and civil society, specifically, E.S. Kovriha (2020), who notes that public opinion is an important policy tool that influences decision-making and strategy development. Public opinion research forms an integral part of the political process, especially in a democratic society. One of the key functions of public opinion is to provide feedback between the government and citizens. In a democracy, it is necessary to ensure the existence of mechanisms of public control over the activities of the authorities (Drobot & Yasinskyj, 2023). This helps to ensure the openness and transparency of government structures. Informing the public about the actions and decisions of the authorities is a key factor in the interaction between these two actors. The more citizens know about the activities of the authorities, the more opportunities they must influence decision-making and demand improvements in government actions.

Another group of scholars, O. Sushkova and I. Osadchyi (2021), investigate the interaction between public authorities and business, addressing the fact that as market relations develop, the business sector is playing an increasingly important role in the economy. However, due to the underdeveloped system of interaction between public authorities and business, this sector is currently facing difficulties in effectively performing its functions. This problem has a negative impact on the state's ability to address both economic and social issues, as well as on the development of civil society in Ukraine. On the other hand, L.M. Denysiuk (2023) proposes to consider the interaction of society, business, and government as a mechanism similar to the concept of a "business process". The author notes that this mechanism operates in a continuous feedback loop. The activity of such a "business process" starts with an input product (such as the National Recovery Programme), adds value to it and provides an output product for internal or external customers (Programme implementation). To achieve the efficiency of the "business process" mechanism, it is proposed to fully use the Shewhart/Deming cycle (Plan-Do-Check-Act) as a model of continuous process improvement.

O. Bardakh (2022) investigates the issue of dimensions of digital interaction in Europe. Considering the experience of digital transformation in the European Union (EU), changes should cover various aspects of public life, including the electoral system, principles of legislative work, control mechanisms, and increasing the responsibility of government authorities towards business and civil society. Transformations in government agencies and local governments are based on the willingness and ability of citizens to use the capabilities of digital technologies, evaluate their benefits and implement them in their daily lives, business processes, social and scientific activities, and education (Begzhan *et al.*, 2021).

An interesting study by M. Hryshchenko (2020) identifies and evaluates the ways in which civil society organisations interact with each other and local authorities, as well as the place of business in this structure. These studies demonstrate the growing interest in the problems of interaction between different actors and provide new perspectives on the joint activities that take place in the sphere of government and civil society. However, the study of the situation and potential of Ukrainian non-governmental organisations (NGOs) during the period of transition is still an understudied area. Most scholars do not pay enough attention to analysing the development of these institutions and identifying effective mechanisms of their interaction with the state, as well as solving problems that complicate such interaction, especially in the context of the European vector of development.

The main purpose of this study was to analyse, evaluate, and develop recommendations for effective improvement of interaction between the actors of the government-business-civil society system in the context of European integration processes. The study on enhancing the interaction mechanisms within the "government-business-civil society" system in the context of European integration encompassed tasks such as analysing the current state and studying European practices, identifying priorities, and developing recommendations, laying the groundwork for a comprehensive exploration of these dynamics in Ukraine's European integration context.

Materials and methods

The object of this study is the interaction between the key actors – the state apparatus, business and civil society in

Ukraine. The study covers the analysis and evaluation of the interaction of these components in the context of European integration processes. The following materials were used for the study: scientific sources and articles on the effectiveness of interaction between the government, business, and civil society in the context of European integration. Strategic documents and programmes of Ukraine on European integration that reflect plans to improve the interaction of these actors. These include the Order of the Cabinet of Ministers of Ukraine No. 1155-p "On the Approval of the Communication Strategy on European Integration of Ukraine for the Period Until 2026" (2022), Association Agreement Between Ukraine, on the One Side, and the European Union, the European Atomic Energy Community and Their Member States, on the Other Side (2014). Furthermore, particular country cases were used to highlight the experience of Latvia and Germany, which have undergone the European integration process and successfully improved their interaction mechanisms.

The study employed the structural-functional and deductive methods, as well as the method of systematisation and system analysis. The application of the systematisation method in the study of the subject helped to develop concrete steps (defining key terms and concepts, identifying the main components of the system, analysing the current state, identifying challenges and opportunities, developing recommendations, defining an implementation plan) for organising and analysing information. The systemic analysis method helped to explore the complex interrelationships, influences, and changes in the government-business-civil society system in the context of European integration. The study found which elements of the system interact with each other and how these interrelationships can affect the dynamics in the system. This method helped to identify key variables that affect the interaction between government, business, and civil society. In general, the system analysis method helped to consider the subject under study as an integral system, identify key factors and dependencies, and develop balanced and effective improvement strategies.

The use of the structural-functional method in the study helped to analyse this system in terms of its components (structure) and their functions. First, the main structural components of the government-business-civil society system in the context of European integration were identified. For each structural component, its functions and role in the system were defined. The structural-functional method also helped to assess the integrity and harmony between contrasting functions and structural components. Concrete recommendations for improving the efficiency of functions and the alignment of interactions with expected outcomes were developed based on an analysis of structural components and their functions in the context of European integration. The structural-functional method helped to model the impact of changes in one component of the system on the others, to expand the understanding of the interaction between the components of the system, to identify the strengths and weaknesses of this interaction, and to develop practical recommendations for its improvement in the context of European integration. The use of the deductive method in the study helped to identify the general principles of interaction between the government, business, and civil society in the context of European integration. These principles can be based on democratic values, principles of European integration, principles of partnership. Based on general principles, hypotheses were formulated on how more effective interaction between actors can be achieved in the context of European integration. Considering the general principles, concrete conclusions were drawn on the need and opportunities for improving and enhancing the mechanisms of interaction. In general, the deductive method helped to logically analyse data based on general principles and theories and draw specific conclusions and recommendations for improving the mechanisms of interaction between government, business, and civil society in the context of European integration.

Results

General state of interaction in the system of "government-business-civil society" in the context of European integration. The modern world requires innovative approaches to the interaction between public authorities, business, and civil society. The specific features of the newest mechanisms of this interaction include the introduction of innovative approaches, a more profound consideration of the interests of all parties and a common desire to achieve sustainable development and improve the quality of life. European integration processes are changing the face of the new society. In this context, it is important to consider how public authorities, business, and civil society interact to jointly promote development and achieve goals.

Public authorities play a key role in setting the rules and creating the regulatory framework for development. However, in the context of European integration, interaction mechanisms require greater transparency, openness, and accountability on the part of public authorities (Kozhyna *et al.*, 2022). Effective cooperation with business and civil society helps to avoid corruption, ensure equal conditions for all players and ensure the performance of public responsibilities. Business is the engine of economic development. However, today's realities require greater responsibility of business structures towards society. The concept of sustainable development and corporate social responsibility are becoming a necessity. Mechanisms of interaction with public authorities and civil society help to ensure an effective balance between profitability and social responsibility. Civil society plays the role of a monitor and initiator of change. Active citizenship encourages the government and business to act for the benefit of the community. Civil society organisations make proposals, take part in decision-making, and monitor their implementation.

The analysis of European integration processes clearly reveals the tendency to change the traditional roles in the relationship between the state and business. Large companies that used to be controlled by the state are now becoming active actors that influence interstate relations, economic and social processes, as well as international and regional politics. They use their resources and capabilities to achieve their goals. In the context of European integration, in the near future, big business, especially transnational and transregional corporations, may even prevail in influencing the global and regional economy (Lipin & Husieva, 2021). This may include not only economic influence, but also latent influential management of state and regional authorities, political parties, and NGOs.

Notably, these trends are developing in the context of relatively passive participation of civil society itself. The latter observes these events from the side-lines without

actively influencing them. This situation is conditioned by the fact that Ukraine still has an underdeveloped civil society that could clearly define and actively pursue its priorities and interests and communicate with the state and business. Considering the growing complexity of relations between society, the state, and business, it is important to find approaches to building an effective mechanism for their interaction (Zaslavska *et al.*, 2020). This mechanism should be based on the creation of a system of common interests for all three subjects of interaction, which requires compliance with the principles of mutual social responsibility. This task can only be solved by applying the fundamental principles of a systemic approach to managing complex socio-economic systems.

In this context, it should be emphasised that society plays the key role in the society-state-business triad. It is a complex social system whose main element is people with their relationships, connections, and interactions. The state, as one of the key subsystems of society, acts as an organisational form of its functioning, playing the role of a governing structure. Business is a vital component of society that ensures the production of goods and services to meet the needs of the population and ensure its development (Bouri *et al.*, 2023). Such a mechanism of interaction should be flexible and allow for mutual cooperation, exchange of information and resources between society, the state, and business. It is important to consider the needs and interests of all parties, adhering to the principles of openness, transparency, and mutual use of the achievements of social development.

Given that the state and business are important components of the socio-economic system – society – the implementation of reasonable forms of relations between them is possible only through the recognition of the priority of system-wide goals and interests. These system-wide goals should factor in the interests of business, the state, and the entire society in a balanced manner. Such a compromise approach requires mutual understanding, openness, and willingness to cooperate from all parties. Within the framework of this approach, it is important to create mechanisms that facilitate effective interaction between the state and business, ensuring the completion of common goals and positive changes in society. Interaction should be based on mutual trust, consideration of interests, and the ability to compromise. Cooperation can help to achieve more balanced economic development, social justice, and a favourable environment for innovation and improved quality of life (Maslov, 2021). In this context, promoting interaction between the state and business involves defining common goals, establishing the role of each actor, creating legal instruments to protect the interests of all parties, and supporting initiatives aimed at sustainably improving the quality of life of citizens and ensuring the sustainable development of the entire society.

Society plays a role in creating favourable conditions for the effective joint functioning and development of the state and business, considering the interests of society and achieving its main development goals. This requires society to perform two essential functions: the first is to set development targets for the state and business, and the second is to exercise close control over the activities of both state authorities and business structures. Therewith, the state and business will be unable to effectively solve this problem in terms of systemicity. Under a free regime, these actors in society may be dominated by their own objective interests, which may not always coincide with the general interests of society. This situation is confirmed by global experience and the practice of Ukrainian events in recent years.

Therefore, to achieve harmonious interaction and joint development of the state, business, and society, it is important to establish mechanisms that would help solve system-wide problems based on recognising and protecting common interests. In this context, society should act as a regulator capable of coordinating and guiding the actions of the state and business to achieve important development goals and ensure the sustainable well-being of all members of society. Thus, there is a need to create consolidated structures that include different components of civil society and can influence the activities of government and business. These structures can coordinate interaction and cooperation between public authorities and enterprises, as well as ensure the convergence of their opinions to address common problems of social development. One of the ways to achieve this is to delegate some of the responsibilities and powers of civil society to non-governmental non-profit organisations (Chen, 2020; Pan *et al.*, 2022). These organisations can help build partnerships between the state and business, facilitating the search for joint solutions to problematic situations in social development.

Civil society can act as an intermediary that helps to unite and coordinate the interests of different parties – the state, business, and society itself. This will contribute to balanced development, improved governance, and the well-being of all segments of the population. One of the modern methods of interaction between the state, business. and the public, an effective tool for representing interests and implementing public policy in democratic countries, is government relations (GR), a specific approach used by non-profit organisations or enterprises to establish effective and long-term relationships with the authorities to achieve not only mutually beneficial but also useful results for society (Meyer, 2022). Ukraine is still developing the practice of GR-management, while the relationship between different parties (government and business, government and the public, business, and the public) is being actively developed. Admittedly, the state has traditionally been the dominant party in these relations. It takes various initiatives and has the necessary resources and powers to determine the nature of the relationship and to select the individuals who will be active participants.

Ukraine is characterised by the preservation of an informal institutional system in the relations between the government, financial and political groups, and society. This system created unclear rules of the game, which allowed for additional benefits. However, the situation has now changed. Despite considerable financial and human resources, especially due to the active involvement of business representatives in government structures, the influence of big business on politics has considerably decreased. This was due to a range of factors such as Russia's full-scale invasion of Ukraine, occupation of territories, active hostilities in most regions of the country, changes in global market conditions, and the need to restructure and modernise enterprises. At the same time, thanks to political and economic opportunities, the influence of big business interest groups on domestic political processes is still significant. Thus, in the current conditions of interaction between the government, business structures, and society in Ukraine, the introduction of GR – management of relations with the authorities – is becoming relevant (Distel, 2020; Wolfschütz, 2020).

This mechanism should be based on the effective use of systemic principles, such as reaching a consensus between the government, business, and society in determining the strategic vectors of the state's economic and social policy. Of importance are also the institutionalisation of relations between business, society, and government through strengthening the role of public councils, lobbying structures, and other organisations representing different interests; involvement of large financial and industrial groups in the socio-economic development of local communities through public-private partnerships; maintaining transparency of relations between the state, business, and civil society; ensuring democracy in making important strategic decisions; expanding social responsibility as a business. Therefore, within the framework of the development of the public sphere, where private and public interests coexist, GR management promotes cohesion between government, business, and society based on consensus, and rationalises the costs incurred in achieving common goals. It combines private interests and turns them into joint efforts for the benefit of society.

The interaction between civil society, business, and the state involves multilateral influences: the state influences business and civil society, and civil society influences the actions of the state, and business influences civil society. In a developed democratic state governed by the rule of law, the government performs the functions defined by civil society. However, there is an important relationship between a democratic state and civil society that cannot be achieved without the latter's autonomy (Fig. 1). The democratic government can direct and coordinate the activities of civil society but has no right to determine its direction (Peterson, 2019; Rukanova *et al.*, 2022). Thus, the various components of civil society should seek a legal status that ensures their autonomy from state bodies, while preserving the state's right to govern and its role as a peacemaker in the public interest. It is important to emphasise that the level of democratic processes is determined by the effectiveness of civil society institutions, not just the degree of their recognition or support by the authorities.

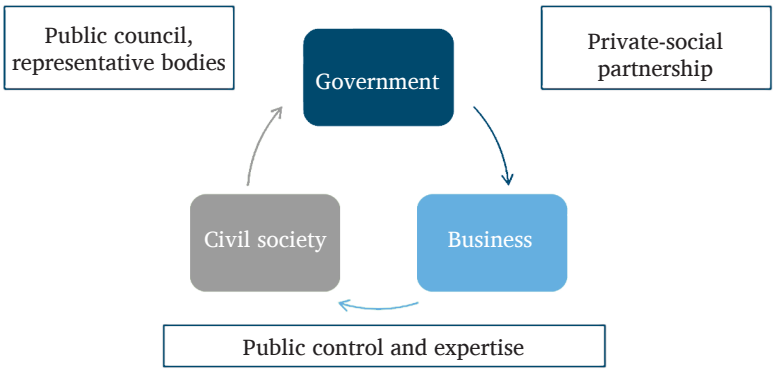

Figure 1. Components of the trilateral institution partnership and forms of interaction between its participants
Source: compiled by the authors

It is important to understand that the number of civil society institutions does not directly reflect the effectiveness of their influence on social processes. This is conditioned by several factors. The same active citizen can be a member or participant of several civil society institutions at once, which can lead to duplication of efforts or division of attention. The results of the activities of civil society institutions can have diverse social significance. For instance, a political party and a fishermen's association operate in distinct areas and have different numbers of members, which affects their contribution to social development. In general, the number of civil society institutions is not a direct indication of their effectiveness. It is important that these institutions have clearly defined goals, functions, and effective mechanisms to influence social processes. It is also necessary to ensure their autonomy from state authorities to ensure their independence and effectiveness.

Experience of European countries in the "government-business-civil society" interaction in the context of European integration. European countries have vastly different dynamics in the interaction between civil society institutions, business, and government, which is consolidated even at the constitutional level and implemented in practice, not just formally. For example, the Basic Law for the Federal Republic of Germany (1949) in Article 20, paragraph 2, states that "All power is derived from the people". This power is based on the rights of citizens consolidated in the constitution and their obligation to contribute to social order and take part in problem-solving. In this context, the key concept is ownership, which goes far beyond the expression of will through elections. In European countries, including Germany, many citizens are involved in civic activities for many hours each month. These activities cover various areas, including sports, leisure, work with children and youth, church affairs, healthcare, social services, culture, and education. The growth of civic activity is also accompanied by a change in its form – from large unions to small self-organised groups and projects. This demonstrates that in these countries, the interaction between civil society and the government is truly partnership, active and practical, aimed at achieving concrete results and promoting social development.

Germany actively supports the importance of the role of active citizens both domestically and internationally. It is well-known that problems such as hunger, human rights violations, and environmental pollution are not limited to borders. For this reason, the Federal Republic of Germany supports the involvement of non-governmental organisations as equal partners in international conferences and organisations

where they can take part and contribute. This is especially true for human rights and environmental groups such as Greenpeace and Amnesty International, which have long been recognised as "global players" (Guercini & Ranfagni, 2021). The activities of these organisations receive great attention and influence at the global level, their voices are considered in important decision-making, and their actions are aimed at solving important global problems. This is an example of cooperation between the state, business, and civil society.

In the context of European integration, Ukraine faces its own problems and challenges in improving the mechanism of interaction in the government-business-civil society system. Corruption and lack of transparency in decision-making can undermine the trust of citizens and businesses in the government and the system of interaction. This can lead to failures in the implementation of European standards and requirements. Ukraine still has large monopolistic structures that can exert undue influence on decision-making and reduce competitive equality in markets (Denysiuk, 2023). This can limit the development of small and medium-sized businesses and entrepreneurial initiatives. Interaction with civil society is not always effective and constructive. Often, NGOs have a limited ability to influence decision-making and be involved in processes. Different interest groups (government, business, civil society) may have different opinions on development priorities and directions (Grant, 2022; Send *et al.*, 2023). The lack of clear and effective legislative regulation of the interaction between the government, business, and civil society can lead to unclear or ambiguous situations. Insufficient awareness of European standards, processes, and practices among the participants of the government-business-civil society system may also complicate their effective cooperation. Political instability and changes in power can lead to interruptions or changes in the interaction between different parties (Kim & Manoli, 2021; Bressan *et al.*, 2023). To overcome these issues, it is important to develop effective cooperation mechanisms, improve legislation, engage experts, and monitor the impact of decisions on society and business.

Improving the mechanism of interaction in the government-business-civil society system in the context of Ukraine's European integration is a major task for ensuring the country's sustainable development and its integration into the European community. Practical steps that can help improve this mechanism.

Preparation stage. It is necessary to investigate the best practices of EU countries in terms of interaction between government, business, and civil society. Research of their programmes, laws, initiatives, and approaches. Setting of concrete goals and objectives for the implementation of the practices. Outlining what aspects of the interaction need to be improved. The next step is to set up a working group, which should include representatives of all parties responsible for planning and implementing the changes.

The stage of developing an implementation plan. Selection of specific best practices and methods from the EU experience that would be useful for Ukraine. Consideration of their adaptation. Creation of a detailed plan that includes steps, deadlines, responsible parties, and resources for implementing best practices. Selection of a particular area to implement best practices as a pilot project.

Implementation stage. First, it is necessary to mobilise resources. This means ensuring that sufficient human, financial, and material resources are available for the successful implementation of the plan. This is followed by a pilot project phase, where best practices need to be implemented on a limited scale to test their effectiveness. It is important not only to implement the changes, but also to monitor the process and results of this pilot, collecting data for further analysis. The last but not least is the communication and reporting stage. Ensuring the effective communication between all parties. Regular informing of the parties on the progress of the project and the results achieved. Transparency in reporting helps keep trust and understanding between all stakeholders.

Evaluation and analysis stage. The pilot project implementation process includes several key stages. First, data collection is carried out, where all relevant information about the project implementation needs to be accumulated. The next step is to analyse the results. It explores how the implementation of best practices influenced the interaction between project participants and the achievement of planned goals. This analysis helps to find positive changes, identify shortcomings, and conclude on the effectiveness of measures. The last step is to evaluate the effectiveness. By comparing the data before and after implementation, it is possible to determine how successful the pilot project was and whether the planned indicators were achieved.

Scaling and distribution stage. Determination of a strategy for scaling best practices to a larger volume or other areas of interaction. Involvement of more representatives of government, business, and civil society in the implementation of new projects and initiatives. Development of a draft law that meets the requirements and objectives of implementing best practices, as well as defines the purpose and changes to the existing strategy.

The next step is training and professional development. Approaches that can be taken to ensure professional development:

- development of training programmes and seminars aimed at developing cooperation, communication, leadership, and management skills. They can include interactive sessions, practical exercises, and experience sharing;
- organisation of trainings and workshops with experts who have experience in improving interaction between actors. This will help to gain practical knowledge and skills;
- partnerships with educational institutions, namely, to establish cooperation with foreign universities, training centres, and other educational institutions to develop specialised courses and programmes;
- implementation of joint training projects where representatives of different spheres, such as government, business, and civil society, can jointly study and analyse problems and opportunities for cooperation;
- continuous organisation of the exchange of experience and best practices between different countries, regions, and sectors. This will help to adopt successful approaches;

Thus, improving the mechanism of interaction in the government-business-civil society system in the context of Ukraine's European integration requires comprehensive efforts and cooperation of all parties. This will help to improve the quality of governance, ensure sustainable development, and raise the living standards of citizens.

Based on the research and analysis of improving the mechanisms of interaction in the government-business-civil society system in the context of European integration, a set of recommendations is presented below. It is recommended to organise regular dialogues, roundtables, public

consultations involving all branches (government, business, society), which facilitates the exchange of ideas and identification of common approaches. It is recommended to create an online platform for collecting public feedback. It is important to consider adapting best practices and tools from EU countries to the Ukrainian context. Organise the exchange of experience and study of best practices through field visits and seminars. It is recommended to create advisory bodies that bring together representatives of different sectors to discuss strategic issues together. They should include experts and representatives of civil society. It is recommended to organise systematic educational events, trainings, and workshops for representatives of all sectors with a focus on cooperation, communication, and leadership skills. These recommendations will help improve the interaction between government, business, and civil society in the context of European integration.

Discussion

Interaction between politically active citizens who consciously contribute to social development and responsible and trustworthy government institutions is a crucial factor in influencing social progress (Adam, 2020; Tejedo-Romero *et al.*, 2022). This interaction helps to bring about changes that meet the expectations of most citizens and contribute to improving the quality of life by giving people a more positive outlook on the future. Ukraine is facing an important problem – the lack of effective interaction between the state authorities and public institutions (Zaslavska *et al.*, 2020). This lack of harmonious interaction between them is one of the key difficulties in public administration. Addressing this problem is essential to overcome negative phenomena in the government, such as corruption, bribery, and influence of financial and industrial groups, lack of transparency and accountability, and an amateurish approach to government duties (Pickard & Smith, 2022; Coen *et al.*, 2022). The solution to this problem will also determine the level of trust in the government and its legitimacy. On the other hand, the use of civil society's capabilities can help improve the effectiveness of management decision-making and solve social problems.

In this context, it is difficult to deny the opinion of S. Lukashev *et al.* (2022), who note that civil society means an association of citizens with a prominent level of social skills, and through various forms and methods of public self-organisation, they influence the development and implementation of important decisions of general importance based on democratic principles of partnership and interaction between the organised public sector, government agencies, authorities, and all citizens. However, this statement is controversial, as in Ukraine, formally, civil society has an influence on the creation and implementation of key decisions that are important for the entire society, but in practice, apart from the electoral process, citizens do not take part in solving governmental issues (Sannikov, 2017).

Another group of scholars, M. Andrienko *et al.* (2022) investigated the issue of optimising ways to improve the interaction between civil society institutions and public authorities and concluded that NGOs and businesses jointly create a system of partner organisations, coalitions, and networks to protect their rights and interests. From this standpoint, civil society institutions that take part in the adoption and implementation of management decisions on important public issues should be regarded as subjects of public administration along with public authorities. It is advisable to develop regulatory changes. The authors note that it is necessary to regulate business incentives for financing civil society institutions by reducing the tax burden and simplifying the permitting and licensing systems. Furthermore, public initiative in public administration processes should be active and perceived by public authorities as a direction for action. However, these principles can only be implemented if they are legally consolidated. One cannot but agree with the scholars' opinion since building Ukraine as a state governed by the rule of law and civil society is possible only through decentralisation of power and development of local self-government. Local self-government bodies, receiving powers and financial support from the state, should act as intermediaries between state authorities and civil society institutions. Effective modernisation of public administration in the context of European integration should result from the conscious and comprehensive involvement of public authorities, local governments, civil society institutions, and businesses in cooperation (Çifligu, 2023).

Á. Kövér (2021) notes that in countries with a long-standing democratic experience, although the relationship between civil society, business, and government may be threatened from various directions, the autonomy of civil society and business is fundamentally guaranteed and their involvement in governance is supported. Their attempts and contributions are recognised, and they play a substantial role in society and contribute to the formulation and implementation of social policy, as well as to the improvement and day-to-day implementation. Businesses in democratic countries can operate in a favourable environment thanks to the regulatory role of the government. Government agencies create a legal framework and regulatory mechanisms that allow businesses to operate within the legal framework, protect property rights, and ensure free competition. The government interacts with business and society by making policy decisions that consider the interests of all parties. By implementing reforms and developing the economy, the government is promoting the business environment, ensuring social protection, and creating equal opportunities (Shubalyi, 2023). Society acts as an active participant in the interaction, expressing its needs and demands through public organisations, movements, and initiatives. Public pressure, discussion of public issues and active involvement in decision-making ensure a balanced approach to solving socio-economic problems. Thus, one should agree with the scientist, as the interaction between business, government, and society in democratic countries is based on mutual understanding, mutually beneficial relations and dialogue, contributing to sustainable development, and the democratic process.

The study by C.-H. Ho *et al.* (2022) is also relevant, as they believe that when discussing the circular economy, companies seem to underestimate the importance of civil society's influence in the transition to this approach. The researchers propose their own model of engagement, in which civil society organisations (CSOs) have an impressive ability to understand the conflicts between sectors and levels that underpin this transition and to resolve them by finding possible compromises and promoting best practices in the circular economy. Therefore, the authors emphasise the importance of companies formally and informally recognising the role of CSOs and considering their requirements and needs. They also believe that CSOs can be a source of knowledge,

experience, and initiatives for change for both companies and the entire state. It is worth agreeing with this study because cooperation with CSOs can also have a positive impact on the internal culture of companies, as employees and suppliers become more involved and agree with the strategies and mission of enterprises, which will have a good trend for the growth of the state's economy.

A study by A. de Soysa (2022) examines the impact of globalisation on non-profit NGOs. The author suggests that globalisation processes have led to an increase in the number and influence of NGOs in different countries, including at the international level. International NGOs and NGO alliances are becoming increasingly important actors in international decision-making, and the roles they may play in the future are being analysed. Scholar have focused on whether the emergence of domestic and international NGOs as important political actors will strengthen or weaken future democratic accountability. In their study, the authors propose several models of cooperation between civil society, government, and business in governance issues. Thus, improving the mechanisms of interaction in the government-business-civil society system in the context of European integration plays a key role in creating sustainable and effective governance and decision-making mechanisms. The implementation of European standards and norms in this area enables countries to have a positive and productive impact on the development of national economic, social, and political systems. The conditions of European integration demonstrate the need to establish constructive cooperation between government, business, and civil society (Kidalov *et al.*, 2020). It is important to ensure that all parties are equal and involved in decision-making and implementation. Transparency and accessibility of information are key aspects in the interaction between the government, business, and citizens. Effective communication helps build trust and common understanding (Chen *et al.*, 2023). The conditions of European integration require the development of joint strategies and action plans to address important social and economic issues. This helps to avoid duplication of efforts and create synergies.

According to the aforementioned scholars, civil society should be actively involved in shaping and evaluating decisions made at various levels of government. This helps to ensure democratic legitimacy and adapt decisions to the needs of citizens. Furthermore, the conditions of European integration dictate the need to increase the responsibility of all parties for their actions and decisions. This applies to the government, business, and civil society.

Conclusions

The study conducted comprehensive research into the current state of interaction between government, business and civil society in Ukraine in the context of European integration. Through analysis of practices, legislation, strategic documents and policies, it identified significant gaps hindering effective cooperation despite some progress. The research revealed a lack of regular, open consultations between the key actors. Civil society participation in shaping priorities and oversight remains limited. Problems persist with transparency, accountability and inclusion in decision-making processes. This is due to underdeveloped communication channels for dialogue. Another core obstacle is unequal access to complete, timely information for civil society and business. Moreover, robust monitoring, reporting and evaluation mechanisms have not been established. These systemic weaknesses lead to compromised trust, conflicting agendas and ineffective implementation of reforms.

The study underscored that interaction between government, business and civil society is a cornerstone for good governance, sustainable development and achieving European standards in Ukraine. Constructive cooperation based on accountable, transparent and participatory principles is essential but lacking. The traditional roles of these actors are changing due to European integration, requiring new partnership approaches. Although formal dialogue bodies exist, civil society input remains confined. The study found the need to balance interests, ensure openness and communicate across sectors is not adequately addressed.

The research highlighted significant bottlenecks in the legislative and policy framework governing interaction. It revealed shortcomings in current consultation practices and participation channels for non-state actors. Equal rights, access to information and monitoring procedures need reinforcement. Distrust persists due to opacity around decision-making and implementation. Conflicting agendas also arise from imbalanced consideration of priorities. As a result, progress in meeting European norms is stalled. Fundamentally reforming the model of interaction by addressing these systemic flaws through new policies, laws and practices will be instrumental for Ukraine. Successful reforms require optimizing inclusive, accountable and transparent governance.

Further research should focus on enhancing communication channels and mechanisms for civil society participation, with a specific emphasis on overcoming barriers to transparency, accountability, and information accessibility in Ukraine's governance structure. Additionally, a comparative analysis of best practices in other European nations could provide valuable insights into fostering trust and aligning priorities among government, business, and civil society actors to effectively advance European integration objectives.

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Conflict of interest

None.

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Теоретичні аспекти покращення співпраці між суспільством, бізнесом та владою в контексті європейської інтеграції

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Анотація. Вступ до європейських структур вимагає від України проведення реформ у різних сферах, включаючи політику, економіку, права людини та демократію. Взаємодія між владою, бізнесом та громадянським суспільством у цьому контексті стає ключовою для успішного впровадження реформ та досягнення стандартів Європейського Союзу (ЄС). Основною метою даного дослідження є аналіз, оцінка та розробка рекомендацій щодо ефективного вдосконалення механізмів взаємодії суб'єктів системи «влада-бізнес-громадянське суспільство» в контексті євроінтеграційних процесів. Методами дослідження стали системний підхід, структурно-функціональний та дедуктивний методи. У роботі представлено огляд сучасних викликів та можливостей, що виникають у зв'язку з глобалізацією та європейською інтеграцією, які вимагають глибоких змін у системі взаємодії влади, бізнесу та громадянського суспільства. У дослідженні проаналізовано роль неурядових організацій (НУО) у прийнятті та реалізації рішень, роль бізнесу у сприянні сталому розвитку, а також діяльність органів влади в контексті врахування інтересів громадян. У доповіді було обговорено основні принципи та підходи до вдосконалення механізмів взаємодії влади, бізнесу та громадянського суспільства. Наголошено на важливості прозорості та відкритості всіх зацікавлених сторін до процесу управління та прийняття рішень. Дослідження виявило життєздатні моделі співпраці, які збалансовують інтереси різних сторін та сприяють сталому розвитку. У дослідженні також проаналізовано практики європейських країн щодо механізмів взаємодії в системі «влада-бізнес-громадянське суспільство» в контексті європейської інтеграції. Практичне значення дослідження полягає у розробці конкретних рекомендацій щодо політичних дій, спрямованих на посилення взаємодії влади, бізнесу та громадянського суспільства в умовах європейської інтеграції. Загалом дослідження та впровадження рекомендацій щодо вдосконалення механізмів взаємодії має потенціал позитивно вплинути на різнобічний розвиток суспільства, політичну стабільність, економічний розвиток та сприяти досягненню європейських стандартів і цілей

Ключові слова: реформа; підприємництво; міжгалузева співпраця; громадська думка; глобалізація

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Conceptual problems of understanding scientific and technical information in the framework of civil legislation

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Abstract. The significance of the research is established by the distinct legal structure encompassing scientific and technical information as a matter of civil rights. This framework is crucial for the progress of science and technology, not only within particular domains, but also on a national scale. The publication seeks to offer a thorough comprehension of the notion of scientific and technical information as a separate topic within the realm of civil rights and to highlight the distinctive attributes of this category and pinpoint any deficiencies in the current legal structure. Furthermore, the publication seeks to present remedies to rectify any discrepancies in legislation. The research was conducted using various primary methodologies, such as analysis, synthesis, formal-logical reasoning, and system-structural analysis. The publication comprehensively analyses the general normative understanding of "information" contained in the Civil Code of Ukraine and Law of Ukraine "On Information" and the consistency of this concept with the term "scientific and technical information" established by Law of Ukraine "On Scientific and Technical information". The scientific novelty is characterized by the proposal to distinguish a system of general and special features of scientific and technical information. It is suggested that the form of existence and the method of recording this type of information be attributed to the general characteristics, and the content of information and/or data and the method of obtaining it to the special ones. Turning to Law of Ukraine "On Scientific and Scientific and Technical Activity" it is worth noting that the inconsistency of the provisions of this normative legal act with such a special feature of scientific and technical information as the method of obtaining it. The publication explores the correlation between the terms "information" and "data". The research validates the theory that scientific and technical information can be subject to intellectual property rights, such as copyright and industrial property rights. The author's work proposes a legal framework to define scientific and technical information at the legislative level. This is achieved through the use of the legal term "obtained in the course of scientific work"

Keywords: Civil Code of Ukraine; Law of Ukraine; scientific work; information; data; rules of legislative technique

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Introduction

The need for a clear understanding of the legal nature of scientific and technical information is due to its importance and significance in the context of scientific and technical research. The issue of the topic of the publication is related not only to the scientific debate about how to understand information in civil law (through the category of information and data, or to be limited exclusively to the category of information), but also to the interrelationship of the normative definition of scientific and technical information with Law of Ukraine No. 3322-XII "On Scientific and Technical Information" (1993), as well as with Law of Ukraine No. 848-VIII "On Scientific and Scientific and Technical Activity" (2015). Obviously, the adoption of Law of Ukraine No. 3322-XII (1993) caused the need for its scientific understanding and doctrinal consideration, however, the entry into force of Law of Ukraine No. 848-VIII (2015) formed a serious problem of violations of the rules of legislative technique, which, in turn, caused legislative inconsistency. Currently, this issue is not raised in modern developments.

The dissertation research conducted by R.V. Nekoliak (2018), which focuses on the organisational and legal aspects of state regulation of scientific and technical activities, deserves recognition in the Ukrainian legal doctrine. K.R. Park (2022) considered science, technology and innovation as a complex phenomenon that needs to be regulated by South Korean public policy instruments. Concerning the evaluation of normative legal acts that pertain to the regulation of essential civil rights, it is noteworthy to mention the research conducted by A.M. Kelly and C.N. Marsack-Topolewski (2021). R. Ducato (2020) focused on safeguarding personal data, scientific inquiry, and the significance of information. This study assesses the General Data Protection Regulation (2016) and its implementation at the national level. It explores the details of how personal information is processed for scientific research purposes.

Serbian researcher J. Vučković (2021) devoted an article to the issue of the legislative consolidation of information in the media space, in particular on the Internet, as an object of legal regulation. Publication of B.J. Evans (2019) deals with the normative and legal regulation of genetic information. Y. Mo *et al.* (2020) use the term "information science" in a publication dealing with the role and importance of higher education curricula. However, this research is not legal, but bibliographic in nature. Therefore, it can be asserted that most contemporary publications pertain to broad topics within the realm of information law, such as the legal framework surrounding specific types of information (such as personal data, internet-based information, and genetic information) or the field of information science (Sopilko & Rapatska, 2023). The distinct characteristics of scientific and technical information as a unique subject of civil rights have not received adequate attention in scholarly advancements. The research focuses on the legal relationships that arise from the normative regulation of scientific and technical information through civil law.

N. Bashuryn (2021) highlights the intricate character of legal regulation concerning information relationships, specifically emphasizing the utilization of civil law instruments. The argument posits that scientific and technical information (STI) can be eligible for intellectual property rights if it demonstrates characteristics such as creativity, originality, novelty, and an objective form of expression. The text also explores the legal protection of STI through copyright law and legislation related to the safeguarding of industrial property rights. This text examines the concept of understanding the rights associated with intellectual property objects, including the theory of exclusive rights to these objects.

The aim of the study is to provide a comprehensive understanding of the concept of scientific and technical information as a unique subject of civil rights. It seeks to emphasise its distinct characteristics and identify any gaps in the current legal framework governing this area of civil law. Additionally, the publication aims to propose solutions to address any legislative inconsistencies that may exist. To achieve this goal, the following tasks need to be completed:

- to form a system of signs of scientific and technical information as an object of civil rights;
- to identify legislative inconsistencies in the normative regulation of scientific and technical information and offer the author's vision of their solution;
- to consider scientific and technical information as an object of intellectual property rights (in particular, an object of copyright and industrial property rights).

Materials and methods

When conducting research, the authors were guided by a system of special scientific methods of legal knowledge, among which it is worth highlighting the method of analysis, the method of synthesis, formal-logical and systemic-structural methods. The analysis method revealed legislative inaccuracies in the regulatory framework of the concept of scientific and technical information, which are related to the provisions of Law of Ukraine No. 3322-XII (1993) and Law of Ukraine No. 848-VIII (2015). Also, the method of analysis made it possible to reflect the consistent approach of the legislator to the legal construction of the information contained in Civil Code of Ukraine (2003) and Law of Ukraine No. 2657-XII "On Information" (1992). The synthesis method was useful for forming a complex system of general and special features of scientific and technical information. This method made it possible to single out such characteristics of the studied object of civil rights as the form of existence, the method of fixation, the content of information and/or data and the method of obtaining them. The synthesis method was used when considering the concepts "scientific activity", "scientific and technical activity", "scientific (scientific and technical) work". The formal-logical method was indispensable when distinguishing the legally prescribed types of scientific work, namely, scientific research, research and design, design and construction, research and technology, technological, search and design and search works. Such a method proved to be useful when considering the scientific debate regarding the understanding of information through the prism of the concepts of "knowledge" and "data". The utilisation of the system-structural approach facilitated the formulation of suggestions for rectifying breaches of legislative technique in the regulatory framework governing scientific and technical information. Furthermore, it enabled a comprehensive examination of the distinctive characteristics of scientific and technical information within the realm of intellectual property law.

The study was conducted according to the classic scheme of legal research, which has three stages: preparatory, main and final. At the preparatory stage, familiarization with both

theoretical and normative material, which was planned to be used in the work, took place, the goal and task of the research, its object, and research methods were chosen that would help to reveal the issues of the topic of publication at a high scientific level. The main stage is characterized, first of all, by the complex application of selected special scientific methods of legal knowledge to normative legal acts and theoretical sources for the systematic presentation of problems of the legal nature of scientific and technical information as a specific object of civil legal relations. This approach makes it possible to present the author's vision with elements of scientific novelty on such issues as, for example, compliance with the rules of legislative technique when forming the definition of the concept of "scientific and technical information". At the main stage of the research, the publications and works of other researchers are also considered, the results obtained are compared with those already known. At the final stage, it was summarized the presented material on the debatable issues of the subject of the publication, reflected their own recommendations for the elimination of legislative inconsistencies and formed the basis for further doctrinal studies of the peculiarities of the legal nature of scientific and technical information as an object of civil rights.

In general, formed at the beginning of the work, the hypotheses "scientific and technical information has a special legal meaning that requires a balanced legislative approach to its regulation", scientific and technical information is a complex legal concept that is regulated not only by Law of Ukraine No. 3322-XII (1993), as well as a number of other legal acts (in particular, Civil Code of Ukraine (2003), Law of Ukraine No. 2657-XII (1992), Law of Ukraine No. 848-VIII (2015)) were confirmed by relevant arguments.

Results

It is necessary to start this research from the constitutional and legal basis of information regulation. Article 34 of the Constitution of Ukraine (1996) guarantees the right of every person to freely collect, store, use and disseminate information in an oral, written or other way – at his own choice. Article 177 Civil Code of Ukraine (2003) includes information in the list of civil rights objects. Article 200, contained in Chapter 15 of Civil Code of Ukraine (2003) "Intangible goods" includes a definition of the term "information", which is obviously general in relation to scientific and technical information as a special type of it. Article 1 of Law of Ukraine No. 2657-XII (1992) interprets the concept of "information" similarly to Article 200 of the Civil Code of Ukraine (2003). Article 10 of this Law refers to scientific and technical information as one of the possible types of information in general. Part 1 of Article 15 Law of Ukraine No. 2657-XII (1992) duplicates the provisions of Article 1 of the Law of Ukraine No. 3322-XII (1993) in terms of understanding the concept of "scientific and technical information".

The main legal act in the field of regulation of scientific and technical information is Law of Ukraine No. 3322-XII (1993). Article 1 provides a normative definition of the term "scientific and technical information" in this source of law. Comparing the definitions of the concept of "information" as established in the Civil Code of Ukraine (2003) and the concept of "scientific and technical information" outlined in Law of Ukraine No. 3322-XII (1993), it is evident that the approach taken by the legislator is endorsed. This approach demonstrates the coherence of normative regulation concerning these concepts. The Law elaborates on the norm found in the Civil Code of Ukraine (2003) while maintaining a consistent legal framework for comprehending the concept of "information". These observations provide a basis for a fundamental conclusion – scientific and technical information, as an object of civil rights, possesses at least two sets of characteristics: general attributes (shared with any information within the realm of civil and legal relations) and specific attributes (which distinguish scientific and technical information from other forms of this concept). The next step is dwelling on this issue in a little more detail.

Two distinct characteristics can be identified when considering scientific and technical information as a subject of civil rights within the framework of normative regulation. The initial indication is the manifestation of existence (in the form of any information and/or data). The second feature is the method of fixation (possibility of saving on physical media or display in electronic form). It should be emphasized that, according to the legislator's approach, such signs are inherent in principle to any information as a legal phenomenon. System of special signs of scientific and technical information, according to the definition of this concept in Law of Ukraine No. 2657-XII (1992) and Law of Ukraine No. 3322-XII (1993), is somewhat more complicated. These features encompass the content of scientific and technical information, which should accurately represent advancements in science, technology, and production. The method of obtaining this information involves scientific research, development, design, technology, production, and public activities. Scientific and technical information can be distinguished from a regulatory perspective based on its collection of general and specific characteristics.

Nevertheless, there are some issues of the coherence of the legislation, in particular regarding such a sign of scientific and technical information as a method of obtaining it. In this regard, the Law of Ukraine No. 848-VIII (2015) was analysed. It would be logical to assume that this normative legal act should be a guide from the point of view of legislative interpretation, which should be understood under each method of obtaining scientific and technical information. However, Article 1 of this Law only includes definitions for terms such as scientific activity, scientific and organisational activity, scientific and pedagogical activity, scientific and technical activity, and the primary activity of scientific institutions. Activities such as scientific-organizational, scientific-pedagogical, and basic activities of scientific institutions are clearly not related to the understanding of the concepts that make up the methods of acquiring scientific and technical information. Nevertheless, the issue of how legislation addresses the substance of scientific and scientific-technical activities becomes pivotal within the framework of this study.

It is important to note that scientific and technical activity is understood in the Law through the prism of the concept of scientific activity, so it is required to dwell on the content of the latter concept. Characteristic features of scientific activity in the normative aspect are: intellectual and creative character; the goal is to acquire new knowledge and find ways to apply it; types – scientific research of fundamental and applied content. The specific features of scientific and technical activity, which allow it to be distinguished as a separate type of scientific activity, are the specification

of the goal (the orientation of this activity specifically to the acquisition and use of new knowledge designed to solve technological, engineering, economic, social and humanitarian problems) and the detailing of types (implemented in applied scientific research and scientific and technical (experimental) developments). Despite the absence of a corresponding provision in the Law, it is commonly believed that scientific and technical activities possess an intellectual and creative nature, akin to scientific endeavours.

In the context of understanding the legislative coordination of methods of obtaining scientific and technical information, it is necessary to mention such a concept, which is operated by Law of Ukraine No. 848-VIII (2015) as a scientific (scientific and technical) work. In the Law, the definition of this concept is given through the prism of the terms research and development of a scientific and scientific-technical (experimental) nature, respectively. The purpose of such research and development is interesting: obtaining a result of scientific, scientific and technical (applied) content. However, it would like to pay special attention to the types of work under consideration, because they resonate with the methods of obtaining scientific and technical information already provided for by Law of Ukraine No. 3322-XII (1993). So, according to types, scientific (scientific and technical) work is divided into groups of scientific research, research and development, design and construction, research and technology, technological, search and design and search works, etc. Thus, in the context of the ratio of concepts used by Law of Ukraine No. 3322-XII (1993) and Law of Ukraine No. 848-VIII (2015), a serious question arises from the point of view of legislative technique: is the list of types of activities, as a result of which scientific and technical information can be obtained, justified and relevant? It is worth noting that this list needs to be finalised and that it will be necessary to amend the legislation governing scientific and technical information in the future.

The presence of non-coincidences regarding the methods of obtaining scientific and technical information can be explained at different times by the adoption of relevant normative legal acts: Law of Ukraine No. 3322-XII (1993), and Law of Ukraine No. 848-VIII (2015). It was drawing attention to the fact that recent changes in Law of Ukraine No. 3322-XII (1993) had been introduced by the Verkhovna Rada of Ukraine in 2014 – a year earlier than the new normative regulation of scientific and scientific and technical activities was introduced. It can be assumed that the legislator simply "forgot" about updating the Law of Ukraine No. 3322-XII (1993) as such a regulatory act related to Law of Ukraine No. 848-VIII (2015). However, the legislative understanding as a result of which scientific and technical information can be obtained requires extremely balanced and well-founded doctrinal developments, which are currently lacking in legal science, because this problem has not been considered in publications. And the first question that arises before researchers of law (in particular, civil law): which type of activity is better to choose – scientific activity as a general concept, scientific and technical activity as a special concept or scientific (scientific and technical) work as a special concept? Arguments both "for" and "against" can be for each of the options.

The proposal to substitute the terminological construction in the legislative comprehension of scientific and technical information "obtained in the course of scientific research, research and design, project-technological, production and public activities" with "obtained in the course of scientific work" appears persuasive. Arguments in favour of this approach cannot be only the form and purpose of such work, but also normatively defined types of scientific work, which in their content not only, in fact, include current methods of obtaining scientific and technical information, but also expand them to a certain measure. In general, the outlined problems may well serve as the subject of doctrinal studies and the basis for further scientific discussions.

In addition, it is necessary to characterise the ambiguous aspects of the form of existence of scientific and technical information, defined in Civil Code of Ukraine (2003) and Law of Ukraine No. 2657-XII (1992) and Law of Ukraine No. 3322-XII (1993) as "any information and data". This approach is not currently accepted by all researchers of legal science. V. Belevceva (2015) suggests understanding information at the level of civil legislation as documented or publicly announced information about events and phenomena that were or are present in society or the state. In order to form a holistic view of the understanding of information in Ukrainian law, it is necessary to refer to some other legal acts, namely – Law of Ukraine No. 2210-III "On the Protection of Economic Competition" (2001) and Law of Ukraine No. 1089-IX "On Electronic Communications" (2020). The first of the considered Laws also defines information, but exclusively through the prism of the concept of information. In the case of the second law, we found a statutory definition of the concept of "data", which the legislator interprets through the category of "information". Such current legislative definitions once again prompt serious reflection.

Firstly, will it be correct to limit the understanding of information in civil legislation exclusively to the concept of information? Secondly, what to do with the fact that a number of the above-mentioned legal acts (Civil Code of Ukraine (2003), Law of Ukraine No. 2657-XII (1992), Law of Ukraine No. 3322-XII (1993)) understand information as data including, and only Law of Ukraine No. 1089-IX (2020) defines the concept of "data" using the term "information". It is obvious that one of the approaches is wrong, but the elimination of such inconsistencies requires thorough research, starting from the semantic understanding of the categories under consideration and up to the legal rules of the legislative technique. Perhaps the understanding of "personal data" can serve as a guide of Law of Ukraine No. 2297-VI "On the Protection of Personal Data" (2010). This legal regulation proposes to consider personal data as information or a set of information. The academic explanatory dictionary of the Ukrainian language defines the concept of information as information or message (Bilodid, 1970). The way out of the situation is as follows: define the legal concept of "information" exclusively through the prism of information or a collection of information. At the same time, data is a special type of information, i.e., it also constitutes information or a set of information, but of a specific content, such as about a natural person, which helpi to identify it.

And finally, it necessary to reflect the understanding of scientific and technical information as an object of intellectual property law. In this aspect, it is important to note that Article 177 of Civil Code of Ukraine (2003) refers separately to the objects of civil rights – the results of intellectual and creative activity, and separately – information. Likewise in Chapter 15 Civil Code of Ukraine (2003) Article 199 is

devoted to the legal regulation of the results of intellectual and creative activity, and Article 200 is devoted to information. Article 420 of the same Civil Code of Ukraine (2003) provides a list of intellectual property objects. Article 457 of Civil Code of Ukraine (2003) is of particular importance in the context of this study, it defines the concept of a scientific discovery. It is also required to mention Article 8 of the Law of Ukraine No. 3792-XII "On Copyright and Related Rights" (1993), which, among the objects of copyright, primarily defines works in the field of science. However, Article 1 of this Law does not contain a general definition of the term "work", fixing only such terms as audio-visual work, derivative work, work of architecture, work of fine art, work of applied art. Note that in the textbook on Ukrainian civil law, two signs of copyright objects are distinguished: the presence of a creative nature and an objective form of expression (Zaika, 2005).

Therefore, an important question arises – whether scientific and technical information will always be the object of copyright, because there are no problems with the second sign. As stated above, the method of recording scientific and technical information (on physical media or in electronic form) is the condition that satisfies the requirement for an objective form of expression of the object of copyright. And if we define scientific and technical information as that obtained as a result of scientific activity, the fundamental features of which are intellectual and creative, it turns out that scientific and technical information, depending on the form of its embodiment, may well be the object of copyright. However, we should not forget about such a sub-institute of intellectual property law as industrial property law. The object of industrial property law in the textbook on Ukrainian civil law is primarily scientific discoveries (Zaika, 2005). The primary legislation governing this area of legal regulation is Law of Ukraine No. 3687-XII "On Protection of Rights to Inventions and Utility Models" (1993), which defines an invention (or utility model) as the outcome of intellectual and creative human endeavour in any technological domain. Article 7 of this Law outlines the criteria for determining whether an invention or utility model is eligible for patent protection, based on its content. Both objects of industrial property law, namely novelty and industrial suitability, share common features. However, the requirement of the inventive step is exclusively applicable to inventions. Considering the aforementioned, one can contend that scientific and technical information is comprehensively safeguarded by the legal provisions of industrial property rights.

Discussion

Considering that this publication focuses on the relationship between scientific and technical information and civil rights, it is essential to commence this section of the study by examining theoretical perspectives on comprehending the object and subject of legal regulation. G.P. Fletcher (2019) asserts that the issue of the correlation between the notions of "object of legal regulation" and "subject of legal regulation" has not been thoroughly examined, prompting him to dedicate his publication to this subject matter. This paper offers a critical analysis of the conventional method of comprehending the organisation of legal systems as a collection of social connections governed by legal regulations. G.P. Fletcher (2019) argues that this approach to understanding the legal order has a limitation in that it restricts the ability to identify the structure of the legal state and the subject of legal regulation. This highlights the significance of the methodological importance of the categories "object of legal regulation" and "subject matter of legal regulation" and proposes differentiating between three relatively autonomous aspects of the unified concept of "legal order": as a norm, process, and outcome of legal existence.

K.R. Park (2022) emphasised that science, technology, and innovation are crucial not only for socio-economic progress but also for the sustainable development of society and the state. To formulate suggestions for an efficient state policy regarding science, technology, and innovation, the South Korean researcher critically examined the existing state policy in this domain and its global framework. This analysis enabled K.R. Park (2022) to not only pinpoint deficiencies in the legislative regulation of science, technology, and innovation but also propose his strategies to address these shortcomings. There are also studies related to information security in the legal doctrine. E.K. Szczepaniuk *et al.* (2020), characterized and evaluated information security management in public administration bodies, and also developed recommendations for improving the level of information security. The researchers noted the need for a systematic approach to ensure information security in public administration. E.K. Szczepaniuk *et al.* (2020) write that it is not to be forgotten that this approach needs constant improvement.

X. Ma (2022) considered ways to motivate information security professionals to protect information security from potential risks. The Chinese scientist substantiates the importance of this research with the constant development of integration technologies that use connection and data exchange with other devices and systems on the Internet, which increases the risks of non-compliance with information security. X. Ma (2022) believes rightly that, in the case of proper protection of information security as the main information and intelligence asset, the relevant organizations will receive a significant advantage. However, it should be noted that the publication prepared by X. Ma (2022), is more technical than legal in nature. S. Li and H. Yu (2020) examined China's financial information platform and observed the pressing necessity for lawful utilisation of personal data by financial consumers. The issue outlined by the scientists assumes particular significance considering the substantial harm that the incorrect utilisation of personal financial data can inflict upon both society at large and individual citizens. As preventive measures regarding the above violations S. Li and H. Yu (2020) consider it necessary to ascertain the extent of personal information held by financial consumers, define the responsibilities of financial institutions in disclosing such information, establish comprehensive state authorities to enforce regulatory policies, oversee and monitor compliance, and devise effective accountability mechanisms in this domain.

In general, the issue of information security is of essential importance for any type of information, including scientific and technical information, because according to its purpose, information security is designed to ensure the integrity and protection against unauthorized access to information resources of any nature (Jatkiewicz, 2013). A significant layer of doctrinal developments concerns issues of personal data and their protection. C.J. Hoofnagle *et al.* (2019) devoted their work to the assessment of the General Data Protection Regulation (2016) of the European Union (EU).

R. Ducato (2020) also analysed this legal act, but in the aspect of legal obligations regarding information provided by the General Data Protection Regulation (2016). C.J. Hoofnagle *et al.* (2019), analysing the provisions of the General Data Protection Regulation (2016), state that this source of law is the most significant regulatory development of the last decade. The researchers note the detailed regulatory regime of personal data protection in the Regulation and predict a significant impact of this regulatory act on the use of personal data around the world.

C.A. Kelly (2022) reviewed the regulatory regulation of personal data protection in the United States of America, China, and the EU from a comparative legal perspective. The scientist stated that currently there is no federal law of the relevant nature in the United States of America, instead, the General Data Protection Regulation (2016) is in force in the EU, and the Personal Data Protection Law was recently adopted in China. It is worth noting that it is possible to have a Law regulating relevant issues in the United States of America, at the level of a separate state. C.A. Kelly (2022) emphasizes that this study becomes especially relevant in the context of the operation of such large companies as Facebook and Google with the personal data of their own users. F. Tassinari (2021) examines the protection of personal data in Morocco in a comparative legal context to the legislation of the EU. Such research was conducted in the aspect of international migration legislation and made it possible to state that legal guarantees of personal data protection in Morocco are weaker than in the EU. As this paper has raised the issue of the relationship between information and data, in particular, in the context of Law of Ukraine No. 2297-VI (2010), the aforementioned studies acquire a special meaning. These publications allow us to consider the legal regulation of personal data not only in Ukraine, but also in the countries of the EU, the United States of America, China, and Morocco.

The following developments of researchers in the field of law are devoted to various types of information as an object of legal regulation. Scientific research of E. Vučković (2021) raises interesting issues of regulatory regulation of information on the Internet. The researcher rightly notes that non-recognition of information on the Internet as an object of legal regulation, lack of legal instruments capable of controlling the dissemination of information in this media space, can cause significant damage to public interests. Justifying his own position, E. Vučković writes that, thanks to the rapid development of technological developments, there has been a need to rethink human communication, which, recently, is increasingly taking place with the help of online services and various media platforms. It is the information policy of the state designed to cope with new challenges in the field of media legislation (Antipova, 2023).

R.T. Budiyanti *et al.* (2022) published an article on the peculiarities of regulatory regulation of health information (medical information), problems of implementing the right to such information in Indonesia. Indonesian academics have described a number of measures that can be implemented by the government to ensure that the right to access to health information is properly implemented. I. Sugiarti (2020) investigated medical secrecy in terms of the content of the medical record. The researcher states that cases of improper filling of the medical card by medical workers are currently common. Such a problem becomes especially important if the patient believes that his rights have been violated and goes to court. In such situations, the incompleteness of the medical document significantly complicates the legal process. I. Sugiarti emphasizes that the patient has rights not only to the confidentiality of medical information, but also to the proper content and completeness of filling out the medical record. It was convinced that the current regulations need to be revised regarding the form of protection of patient's rights and the legal regulation of medical confidentiality.

The work of B.J. Evans (2019) is devoted to the peculiarities of genetic information as an object of legislative regulation. B.J. Evans writes that the industry of testing genetics is a complex system of sharing genetic information, often without the consent of the bearer of such information, to stimulate scientific discovery, help treat other patients, and so on. It should be note that the Law on non-discrimination of genetic information has a number of significant shortcomings, does not fulfil the tasks assigned to it and even harms the citizens whose rights it is meant to protect. In connection with the above, B.J. Evans offers his own solution to the situation. It was convinced that the relationship between scientific and technical information and other types of it, such as information on the Internet, medical information, and genetic information, has an important theoretical significance in legal doctrine. At the same time, it is important to note that Article 10 Law of Ukraine No. 2657-XII (1992) provides for the division of information into types by content, among which there is also scientific and technical information. Article 21 of this Law refers to information about medical care as information with limited access, and information about genetically modified organisms is such information as information about the state of the environment (ecological information) according to Article 13 of the Law (Berezanska *et al.*, 2023). Regarding information on the Internet, an approach that understands this type of information according to such a criterion as the place of distribution seems convincing. The scientists did not ignore the issues of commercial secrecy as a normative category.

I.H. Alid and L. Ekaningsih (2020) published a work on the problems of the normative regulation of commercial secrets as an object of legal protection. Researchers draw attention to the fact that not all corporate information has elements of a trade secret in its content, and believe that information can be considered a trade secret under the conditions that it is unknown to a wide circle of the public, has economic value, and in the case of its theft and leakage can cause significant damage. I.H. Alid and L. Ekaningsih single out two features of the normative regulation of trade secrets: the preventive nature (the presence of rules and regulations that ensure the observance of trade secrets, as well as written agreements between the parties on this matter) and the possibility of applying repressive measures (occurs in case of violation of legislative norms and agreements on the preservation commercial secret). F. Susanti (2019) reviewed the regulations governing trade secrets and their use, focusing on licensing agreements and license conditions. The researcher believes that consideration of trade secrets in the context of intellectual property law has a special economic significance in business activities, the social utility of which is difficult to overestimate. F. Susanti notes that both judicial and non-judicial proceedings may be used for disputes arising from the use of trade secrets, according to the needs of the parties to such a dispute.

Civil Code of Ukraine (2003) enshrines commercial secrets as one of the objects of intellectual property in Article 420. Scientific and technical information as an object of intellectual property rights was considered in this publication. In general, the understanding of commercial secrecy and the legal basis of its regulation are important for the theoretical understanding of scientific and technical information as a category that is influenced by the instruments of civil law, because it is quite possible that the latter may be the content of the concept of "commercial secrecy" (Magauiya *et al.*, 2023).

D.J. Solove (2022) devoted a publication to individual rights to privacy. The American researcher is convinced that the importance of a person's right to privacy is manifested, first of all, in the fact that they are the basis of laws on information privacy and data protection. D.J. Solove (2022) differentiated the different components of a system of pertinent civil rights, such as the right to access, the right to limit, the right to object, and others, from the General Data Protection Regulation (2016). It also observed that privacy laws at the international level encompass many of these rights in different variations. D.J. Solove believes that in order to establish an efficient system for governing and legislating the protection of an individual's privacy and confidential information, it is crucial to consider the interconnected nature of personal data. Consequently, any limitations on civil rights regarding personal data may have an impact on the interests of other individuals (Getman & Karasiuk, 2014). Upon examining D.J. Solove's publication, it was underscored that the researcher gave significant attention to the individual's entitlement to privacy in connection with the notion of "confidential information". Undoubtedly, scientific and technical information may possess confidentiality in its substance, however, this matter necessitates additional investigation.

Without detracting from the scientific achievements made prior to this publication, it would be important to emphasise that the problems of scientific and technical information as an object of civil rights have hardly been considered. In this publication, an analysis of the normative definition of "scientific and technical information" was carried out, a system of its features was identified, legislative inconsistencies regarding the legal regulation of this category and the meaning of this concept in the context of intellectual property law were considered. The vast majority of research was carried out in the so-called field of information law, devoted to issues of information security, legislative regulation of personal data and methods of their protection, various types of information as an object of legal influence (information on the Internet, health information, medical secrecy, genetic information, commercial secret), the rights of a person to confidentiality and understanding of confidential information. Of course, some of the described concepts resonate with scientific and technical information, because the situation is not excluded when information on the Internet or genetic information will be scientific and technical in its content, but doctrinal developments were not carried out in this aspect.

Conclusions

The work comprehensively reflects the problems of understanding the peculiarities of scientific and technical information as an object of civil rights. This article positively assesses the position of the legislator, who is guided by unified legal constructions regarding the understanding of information as a special category of civil law not only in the Civil Code of Ukraine and Law of Ukraine No. 2657-XII, but also in Law of Ukraine No. 3322-XII. Scientific novelty is characterized by the author's approach, reflected in the publication, regarding the normative understanding of scientific and technical information as a category that has general and special characteristics. The content of each of the proposed features is revealed in the work. When researching such a special feature of scientific and technical information as a way of obtaining it, the inconsistency of the Law of Ukraine No. 848-VIII was established. Having systematically reviewed such categories as scientific, scientific and technical activity, and scientific work, it was proposed to limit the legislative definition of scientific and technical information to the way it is obtained as "obtained in the course of scientific activity". Arguments in favour of such an approach can be not only normative features of scientific work, but also its types provided by Law of Ukraine No. 848-VIII.

The publication raises the issue of a scientific discussion about what exactly should be understood by information – only information, or information and data. In this regard, certain provisions of such laws of Ukraine as Law of Ukraine No. 2210-III, Law of Ukraine No. 1089-IX and Law of Ukraine No. 2297-VI were considered. Currently, when comparing the definitions of the concepts "information", "data", "personal data" provided by these Laws, inconsistencies and violations of the rules of legislative technique can also be traced. On the other hand, the results of the article are favourable to the understanding of information as data or a set of data, suggesting that data should be considered as a special type of information. This study also investigates the matter of scientific and technical information as a distinct subject of intellectual property law, encompassing copyright and industrial property rights. The foundation for future scientific research on the subject of publication can be the challenges in enhancing the legally prescribed approach to acquiring scientific and technical information, while considering the normative definitions outlined in Law of Ukraine No. 848-VIII, as well as a doctrinal comprehension of information (either solely as information, or both as information and data, or the formulation of an original, author-specific term to interpret this concept).

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Conflict of interest

None.

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Концептуальні проблеми розуміння науково-технічної інформації в рамках цивільного законодавства

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Анотація. Актуальність дослідження зумовлена чіткою правовою структурою, що охоплює науково-технічну інформацію як об'єкт цивільних прав. Ця структура має вирішальне значення для науково-технічного прогресу не лише в окремих галузях, а й у національному масштабі. Ця публікація має на меті запропонувати ґрунтовне розуміння поняття науково-технічної інформації як окремої теми у сфері цивільних прав та висвітлити характерні ознаки цієї категорії та виявити будь-які недоліки в чинній правовій структурі. Крім того, публікація має на меті представити засоби правового захисту для усунення будь-яких розбіжностей у законодавстві. Дослідження проводилося з використанням різних основних методик, таких як аналіз, синтез, формально-логічні міркування та системно-структурний аналіз. У роботі комплексно проаналізовано загальне нормативне розуміння поняття «інформація», що міститься в Цивільному кодексі України та Законі України «Про інформацію», а також узгодженість цього поняття з терміном «науково-технічна інформація», встановленим Законом України «Про наукову і науково-технічну інформацію». Наукова новизна характеризується пропозицією виокремити систему загальних та спеціальних ознак науково-технічної інформації. До загальних ознак пропонується віднести форму існування та спосіб фіксації цього виду інформації, а до спеціальних - зміст відомостей та/або даних і спосіб їх отримання. Звертаючись до Закону України «Про наукову і науково-технічну діяльність», варто відзначити неузгодженість положень цього нормативно-правового акту з такою спеціальною ознакою науково-технічної інформації, як спосіб її отримання. У публікації досліджується співвідношення термінів «інформація» та «дані». Дослідження підтверджує теорію про те, що науково-технічна інформація може бути об'єктом права інтелектуальної власності, зокрема авторського права та права промислової власності. У роботі запропоновано правову базу для визначення науково-технічної інформації на законодавчому рівні. Це досягається шляхом використання юридичного терміну «отримана в процесі наукової діяльності»

Ключові слова: Цивільний кодекс України; Закон України; наукова робота; відомості; дані; правила законодавчої техніки

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Mediation as a conflict resolution tool in criminal proceedings in the context of martial law

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Abstract. The research relevance is determined by the need to develop alternative dispute resolution methods to improve the mechanism of protection of citizens' rights in the context of a full-scale invasion. Therefore, the study aims to analyse the institution of mediation in criminal proceedings with due regard to the peculiarities of martial law. A range of methods were used for this purpose, namely, formal legal analysis logical analysis, legal hermeneutics, dogmatic method, logic and functional analyses. The study revealed that mediation is used in criminal proceedings only to reconcile the victim with the suspect. This procedure can solve the problem of overloading the courts and potentially delaying the resolution of disputes. As noted, under current legislation, a reconciliation agreement in criminal proceedings for domestic violence can only be concluded at the initiative of the victim; it was determined that it is necessary to provide that the relevant initiative for mediation in cases of such offences should also come from the victim. As suggested, legislative provisions should include mandatory participation of the victim's representative in criminal proceedings in case the court decides to release the victim from serving a sentence with probation, substitute the remaining part of the sentence with a lesser one, or grant early release from serving a sentence. The ways to improve human rights guarantees in the mediation procedure under martial law

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were considered. The practical significance of the results obtained is to provide recommendations for improving the modern mechanism of this institution in criminal proceedings

Keywords: restorative justice; alternative method; full-scale invasion; human rights; citizens' appeals

Introduction

The number of appeals to the courts is growing in Ukraine, which indicates an increase in the legal culture of the population and access to justice. However, due to the full-scale invasion, the heavy workload on judges makes their work difficult, and the duration of court proceedings is unreasonably long. Often, court decisions are not satisfactory to either party, leading to appeals to the courts of appeal and cassation, and sometimes even to international judicial institutions. As a result, the effectiveness of the judicial system is criticised by the public. The system continues to function under martial law but to improve it, it is necessary to improve legislation, increase the authority of the court and ensure proper logistical support for the courts. It should be noted that alternative dispute resolution under martial law plays a special role in solving the above problems. In this regard, it is important to analyse them as a tool for conflict resolution in criminal proceedings, considering the peculiarities of a full-scale invasion.

As noted by A. Dmytrenko and M.R. Mazur (2021), restorative justice, which is actively used in many countries, aims not only to ease the burden on the judicial system but also to prevent future crimes. However, the authors do not emphasise that it involves conflict resolution with the direct participation of the parties, which makes it possible to find a solution that will satisfy both parties. One of the forms of restorative justice is mediation (Horislavska, 2023). According to T.H. Fomina (2021), mediation is a form of conflict resolution between persons with the participation of a mediator, an alternative to court proceedings. The author does not mention that the purpose of this process is to help the parties to the conflict reconcile and find a solution that will satisfy both parties. For this purpose, mediators must be well-trained and adhere to professional standards. R. Chip and R. Gatanyuk (2023) believe that alternative dispute resolution schemes should be linked to the judicial system. This is necessary to ensure that mediators have the necessary professional skills and qualifications, as well as impartiality and independence.

For mediation in Ukraine to be effective, legal provisions should be developed to regulate its implementation and the status of mediators. As O.V. Kovaleva (2022) notes, mediators should undergo initial training to provide them with the necessary knowledge and skills to resolve conflicts. The author does not mention that mediators should possess certain traits, such as interpersonal skills, the ability to assess the situation and an understanding of the vulnerability of the parties. Following T.D. Lysko and N.P. Zakharchuk (2022), in countries where mediation is being implemented, an important aspect is to develop common standards for the training of mediators and to implement appropriate educational programmes for the training of specialists in this field. According to N. Roskoshna (2020), when developing a curriculum for the training of mediators, it is necessary to cover the following key topics: basic principles and purpose of the process; ethical principles and value orientations of activity; sequence of stages; criteria for the feasibility of applying the procedure in specific cases. The author does not mention that the mediator training programme should include the study of the specifics of mediation in various areas, such as criminal proceedings, family cases and civil disputes.

As I.V. Ozerskyi (2023) notes, when considering the specifics of mediation in criminal proceedings, it is necessary to consider the basic principles of the criminal justice system; the relationship and interaction of criminal justice and mediation; the development of communication skills and work with participants in criminal proceedings and other aspects. J.K. Martinez (2020) suggests that a reconciliation pact embodies an understanding between the harmed party and the alleged perpetrator, outlining the conditions under which the accused acknowledges responsibility for actions aimed at restitution for the harm resulting from the offense. In turn, the C. Rule (2020) notes that a reconciliation agreement is not a unilateral statement by the victim, but a mutual agreement to peacefully resolve the conflict between the victim and the suspect or accused. Therefore, one could posit that the primary foundation for entering into a reconciliation agreement is the occurrence of reconciliation between the victim and the suspect or accused. As for the features inherent in a reconciliation agreement, they can be divided into two groups: procedural and socio psychological (Rima *et al.*, 2019). The former characterises the agreement as an institution of criminal procedure law and a procedural document. The latter relates to the internal psychological attitude of the parties to the agreement.

As such, the study aims to analyse the mediation procedure in criminal proceedings under martial law. The study goal requires a definition of the basic concepts, a description of the current legislation, and an identification of the scope of challenges and ways to prevent them.

Materials and methods

In the course of the study, a variety of specially legal methods were used to cover all key aspects of the issue. The formal legal approach became the basis of the study and was used to analyse the legal acts regulating the activities of the institution of mediation in criminal proceedings. This approach made it possible to consider the wording of legal provisions, their legal mechanics and terminology. This helped to reveal the essence of the legislative regulation of mediation, and also contributed to the identification of gaps, conflicts and discrepancies between international and national legislation in force in Ukraine. Based on this approach, conclusions were drawn as to how comprehensive the legislator's regulation of this area is, as well as the consistency and interaction of legal regulation of mediation in criminal proceedings, which allowed for a comprehensive analysis of the existing legislation in this area. The analysis of legislation would not be complete without the use of the method of legal hermeneutics, which was used to conduct a detailed philological analysis of the texts of legal acts regulating the mediation procedure in criminal proceedings. This method was used to study the systemic links between different terms of the legislation.

The dogmatic approach was used for a thorough study of the main terms and concepts used in the field of legal

regulation, such as "restorative justice" and "mediation". This method made it possible to establish the content, interrelationships, and correlations of key legal constructs and models used to regulate the mediation institute and to assess the compliance of legal acts with the basic principles of law in this area. This made it possible to make theoretical generalizations regarding the legal nature and content of mediation regulation. The method of functional analysis was used to determine the role of mediation in criminal proceedings, its impact, and importance in relieving the judicial system of its workload. This approach was also used to consider the role of mediation in ensuring the rights of the parties to the conflict, including the victim and the offender.

The study analysed a number of legal, regulatory and advisory sources. The analysis of presidential decrees, current legislation, criminal codes, as well as recommendations of the Committee of Ministers of the Council of Europe, Council of Europe decisions and guidelines on mediation provided a broad overview of the legal framework governing the mediation process in criminal justice. In addition, the reports of the Commissioner for Human Rights of the European Court of Human Rights provided important information on the protection of human rights in wartime and the role of mediation in conflict resolution in these circumstances. A general review of these sources allowed for an in-depth analysis of the role of mediation in the context of criminal justice during martial law, identification of its advantages and limitations, and recommendations for further development of the mediation system in such circumstances.

Results

On 24 February 2022, the Verkhovna Rada of Ukraine declared martial law due to the Russian full-scale invasion of Ukraine (Decree of the President…, 2022). This caused several problems with the functioning of Ukraine's judicial system. Before the outbreak of the full-scale war, Ukraine already had systemic problems with the judicial system, including overloaded courts, a shortage of judges and underfunding, which were exacerbated by the war; some judges were forced to relocate or suspend their activities; court buildings and infrastructure were destroyed or damaged, making access to justice more difficult; and new problems arose as a result of the full-scale invasion (Chyzhyk, 2022). In particular, part of Ukraine's population was forced to flee their homes, moving both within and outside the country. Others have remained in the temporarily occupied territories, where they cannot access justice due to increased security risks, destruction of infrastructure and other reasons. The law enforcement system in wartime is focused on national security and countering armed aggression. This also complicates access to justice, as law enforcement agencies are unable to fully fulfil their responsibilities to protect the rights and freedoms of citizens.

Hostilities have also affected the judicial system of Ukraine. In this regard, amendments were made to the legislation. In particular, on 3 March 2022, the Verkhovna Rada of Ukraine adopted Law of Ukraine No. 2112-IX "On Amendments to the Seventh Part of Article 147 of the Law of Ukraine "On the Judiciary and the Status of Judges" Regarding the Determination of Territorial Jurisdiction of Court Cases" (2022). During martial law or an emergency caused by a natural disaster, hostilities, anti-terrorist operations or other force majeure circumstances, the administration of justice acquires certain peculiarities. In particular, the law provides for a procedure for changing the territorial jurisdiction of court cases that are considered in a particular court. According to the Supreme Court, due to the impossibility of ensuring the functioning of the judicial system in the temporarily occupied territories during the hostilities, the territorial jurisdiction of 195 courts was changed (The list of courts…, 2023). Some of them have already resumed their operation, but most of the courts located in temporarily occupied territories or in areas where hostilities are ongoing have not resumed their activities. It should be noted that 13 courts are currently destroyed, 587 administer justice, 87 do not administer justice due to active hostilities or location in the temporarily occupied territory, 84 have not administered justice since 2014, and 86 have varying degrees of destruction (The Chairman of the Council…, 2023). This has led to a significant increase in the workload of other courts, which in turn can lead to delays in the consideration of criminal proceedings. One of the ways to overcome this problem is to spread alternative forms of justice, including mediation.

Mediation is a process in which an impartial third party, a mediator, helps conflict parties reach a mutually acceptable solution. Historically, mediation originated in English-speaking countries in the second half of the 20th century and then spread to continental Europe and Asia (Baranyanan, 2021). In Ukraine, mediation was enshrined in the Law of Ukraine No. 1875-IX "On Mediation" (2021). In criminal proceedings, mediation is used only to reconcile the victim with the suspect (accused). An outline of this process is shown in Table 1.

Table 1. Scheme of the mediation process

Stage	Description
Preparation	The mediator meets separately with each party and explains the rules and principles of mediation
Initiation	Each side describes the conflict situation from its point of view. The mediator clarifies the facts
Opinion evaluation	The mediator asks clarifying questions to understand the interests and needs of the parties
Option determination	The mediator encourages the parties to propose possible solutions that would be acceptable to both parties
Discussions	The parties discuss the proposed options and analyse the advantages and disadvantages
Conclusion of a deal	Based on the results of the discussion, the parties agree, all the details of which are specified

Source: J.K. Martinez (2020)

It is worth noting that these are the main stages of the mediation process, in which a third party coordinates the process, helps to establish communication, and facilitates constructive solution finding. Mediation can be an effective tool for addressing the problems of the justice system during martial law. However, it is necessary to consider the practice

in some countries. Differences in approaches to understanding the basic principles and the development of restorative justice have led to the growing popularity of mediation in tort relations. The United Nations (UN), the Council of Europe and the countries of the Anglo-Saxon legal system emphasise the important role of restorative justice. It is worth noting that the task of restorative justice is reconciliation, which is aimed at restoration. International documents, in particular Recommendation No. R(99)19 (1999), Decision of the Council of the European Union (2001/220/JHA) (2001), Guidelines for a implementation of the Recommendation concerning mediation (2007) oblige EU countries to promote mediation in criminal cases.

According to the German experience in the field of juvenile justice, mediation is an alternative route to criminal prosecution and punishment of minors (Kiesewetter and Paul, 2023). This practice is effectively used for most criminal offences and can serve as a basis for mitigating penalties or exempting a minor from liability. Kazakhstan is actively developing the institution of mediation in criminal law (Criminal Code of the Republic of Kazakhstan, 2014). Although mediation does not replace the court, it allows the conflicting parties to reach a consensual decision based on which the court may release the accused from liability. Amid the imposition of martial law in Ukraine, mediation emerges as a potential solution to various challenges within the realm of justice administration, especially concerning criminal proceedings. Despite differences in the approaches of different countries, the active use of mediation shows its effectiveness in achieving the goals of restorative justice. When considering the possibility of using mediation in criminal proceedings, the question arises as to the nature of the dispute to be settled. The first aspect is the resolution of property issues in a civil action. However, an analysis of the Criminal Code of Ukraine (2001) and the Criminal Procedure Code of Ukraine (2013) shows that the purpose of mediation is to reach reconciliation between the victim and the suspect/accused on the issues of guilt and responsibility of the latter. In other words, in this case, it is not a property dispute that is being settled, but a conflict between the parties to criminal proceedings regarding the circumstances of the crime.

Martial law creates additional difficulties for the resolution of criminal law conflicts in the traditional judicial procedure. Mediation (online mediation) is an alternative way to resolve such conflicts, which has several advantages, including alleviating the workload of the judicial system, resolving a dispute in a shorter time than a trial, considering changes in security and territorial jurisdiction, and providing access to justice for participants in criminal proceedings who have changed their place of residence or have been forced to travel abroad. Preparatory activities carried out by the mediator include meetings of the parties and, the exchange of information and documents necessary for decision-making. Mediation in criminal proceedings may result in an agreement that will serve as a basis for further conclusion of a reconciliation agreement between the victim and the suspect/accused or the victim's written consent to a plea agreement. As a reconciliation agreement in cases of domestic violence is possible only at the initiative of the victim, it should be provided that the initiative to conduct the mediation in such criminal proceedings should also belong exclusively to the victim (Yara *et al.*, 2021).

The experience of Singapore is an example of the effective use of online mediation. In 2020, the Singapore International Mediation Centre launched the JIMC-SIMC COVID-19 Protocol (2020) to provide companies with a fast, cost-effective, and efficient way to resolve any international commercial disputes during the COVID-19 pandemic. This protocol has certain key features and is implemented in a prescribed manner. First, the parties can submit their disputes by submitting a form on the SIMC website and paying USD 250; then SIMC will arrange mediation within 10 business days, the parties benefit from reduced fees, and SIMC is flexible in appropriate cases; importantly, the mediation is conducted online. In terms of the European Union's practice, the first steps towards the gradual introduction of alternative dispute resolution were taken even before the pandemic; the European legal system aims to encourage parties to use due process to resolve a dispute, not just access the court system (Baranyanan, 2021). According to Law of Ukraine No. 3460-VI "On Free Legal Aid" (2011), free primary legal aid includes assistance in facilitating a person's access to mediation. At the same time, the victim needs free secondary legal aid when the court considers the mediation agreement. Therefore, it is imperative to stipulate compulsory involvement of a victim's representative in criminal proceedings when the court decides on the release or mitigation of punishment, as the victim may not be able to defend his or her interests in court. The victim should also be given the right to apply to the court to consider the mediation agreement during the execution of the sentence, which will allow them to receive compensation for damage more quickly.

The Annual report on the activities of the European Court of Human Rights Commissioner (2021) states that one of the key problems that led to the establishment of violations of the European Convention on Human Rights (1950) by Ukraine is the protracted consideration of civil, administrative, and criminal cases. Legislative regulation of mediation and the use of online methods of alternative dispute resolution could significantly relieve the judicial system and ensure access to justice for all segments of the population in the new environment. However, online mediation has several problems that need to be considered when conducting it. First, the quality of communication in online mediation depends on many factors, including the digital literacy of the participants, the quality of the connection, the technical means of communication and the lighting. This can lead to problems with understanding each other and slow down the negotiation process. Secondly, it may be difficult for the mediator to adequately interpret the emotional state of the parties and support them in sensitive communication. In addition, if one of the parties is in a state of effect, the mediator cannot influence their behaviour in real-time. Furthermore, it may be difficult for the mediator to adequately interpret the content of the negotiations if they take place in asynchronous communication. Fourth, online communication can be more tiring for participants than traditional face-to-face mediation. This is because participants need to make greater use of their psychological, intellectual, and physical resources. Fifthly, there is an increased risk of violation of the principle of confidentiality in online mediation. This may occur through the negligence of the participants, as a result of intentional actions or due to the misconduct of third parties. In addition, there is an increased risk of misinterpretation of the parties' actions and/or events related to technical aspects of communication.

In conflict situations, the parties often experience strong emotions that can impede constructive dialogue. In times of war, these emotions are amplified, making conflict resolution more difficult. Mediation allows the parties to express their feelings and needs, and to find a mutually acceptable solution that considers the interests of all parties. Ukraine is already applying some aspects of restorative justice, but more needs to be done to implement a comprehensive system of restorative justice in the country. To ensure human rights and enhance restorative justice amidst the war in Ukraine, various measures can be recommended. These include:

- enhancing the competency of law enforcement officers and judges through specialized training courses and workshops to elevate their understanding and skills;
- broadening the application of alternative dispute resolution mechanisms like mediation and negotiated agreements to alleviate the burden on the judicial system while facilitating swift and efficient conflict resolution;
- securing international support to aid Ukraine in justice system reform and the implementation of global human rights standards, leveraging the expertise and resources offered by international organizations and experts;
- advancing information technologies to bolster the effectiveness of criminal and restorative justice, including the automation of administrative processes and the facilitation of data accessibility;
- prioritizing victim protection by ensuring their rights and interests are safeguarded throughout legal proceedings, while also providing access to legal assistance and comprehensive information about their entitlements;
- offering rehabilitation and support services to all parties involved in the conflict, including psychological counseling, social welfare assistance, and other initiatives aimed at aiding their recovery and reintegration into society following the turmoil.

Given the aforementioned, the following provisions are proposed to be added to the current legislation: concerning judges-mediators, it is proposed to supplement the Law of Ukraine "On the Judicial System and Status of Judges" (2016) with a new article that would provide for the possibility of a judge (with proper consent) to act as a mediator in certain categories of criminal, civil, commercial, and administrative cases; the appointment of a judge-mediator should be made by the relevant court chamber. It is also important to enshrine information about mediation in the courts at the legislative level – in particular, to supplement Article 314 of the Criminal Procedure Code of Ukraine (2013), which deals with the preparatory hearing, with the following provision: "During the preparatory hearing, the presiding officer shall explain to the parties the possibility of resolving the dispute through conciliation, including mediation". It is also important to enshrine a provision on mediation in criminal proceedings that would provide for the possibility of mediation at the pre-trial investigation stage – to supplement Article 214 of the Criminal Procedure Code of Ukraine (2013) with a provision on reconciliation between the accused and the victim.

Considering the advantages and disadvantages of mediation, the procedure can be successfully applied in the context of martial law in Ukraine. In particular, mediation can help resolve conflicts arising from military operations and provide access to justice for participants in criminal proceedings who cannot participate in court proceedings in person.

Discussion

The current criminal justice system mainly aims to punish criminals and protect the interests of the state. It neglects the needs of the victims and the offender. A punitive approach to justice often makes it difficult or even impossible to reform and re-socialise offenders. According to S.B. Goldberg *et al.* (2020), in criminal justice, where the main goal is to protect the public interest, the implementation of restorative justice is quite difficult. The authors also note that despite these difficulties, restorative justice, which focuses on the needs of all parties to the conflict, is gaining popularity in the world. It is used as a form of response to criminal offences of an alternative or complementary nature. It should be added to the authors' opinion that despite the difficulties inherent in criminal justice, there are opportunities to apply restorative justice practices to meet the needs of victims, offenders, and communities. Given this, improving the institution of mediation in Ukraine is not only a way to resolve conflicts but also a requirement under martial law.

As noted by C. Menkel-Meadow (2020), the concept of "restorative justice" should be defined as a process that enables victims of crime and offenders to actively participate in resolving issues related to the crime with the mediation of an impartial third party. It is worth mentioning that one of the most common forms of restorative justice is mediation, which emerged in the late twentieth century as an alternative to the traditional judicial system of conflict resolution. According to L. Charkoudian *et al.* (2022), unlike traditional criminal proceedings, where the main participants are the state and the offender, mediation focuses on the victim and the offender. The purpose of mediation is to enable the parties to find a mutually beneficial way to resolve the conflict. Unlike the traditional process, in mediation, the victim and the offender play an active role and make decisions by mutual agreement. When considering the effectiveness of judicial systems, the prevailing view in scientific doctrine is that none of them can satisfactorily address all types of criminal offences (Holtzworth-Munroe *et al.*, 2021). The stated opinion is valid, as Ukraine is no exception; the main incentive for the development of alternative methods of resolving criminal disputes is the lack of productivity of courts in considering certain categories of cases. This may be due to their overload, delayed consideration, incompetence in resolving issues, as well as other shortcomings specific to the judicial system of a particular country.

As K. Tokarz *et al.* (2020) note, mediation is a special type of negotiation that necessarily involves a mediator; the mediator does not represent either party but only facilitates the negotiations. Additionally, the authors underscore that, in contrast to court proceedings where a judge renders decisions, a mediator solely facilitates communication between disputing parties, guiding them towards independently reaching an agreement. Consequently, the conflicting parties assume responsibility for both making and executing decisions. It's worth noting, in alignment with the authors' stance, that the mediator refrains from imposing binding decisions on the parties; instead, the parties themselves play an active role in finding possible solutions during the negotiations. The use of mediation in different areas has its peculiarities. As for mediation in criminal proceedings, the conflict here is not just a lack of agreement between the parties, but a criminal law conflict, the subject of which is a criminal offence (Hribov & Chervinskyi, 2023).

According to J. Rijnhart *et al.* (2021), the peculiarity of mediation in criminal proceedings is a specific range of subjects: on the one hand, the suspect/accused who committed the criminal offence, and on the other, the victim against whom it was committed. According to the authors, unlike traditional justice, which focuses on punishing the perpetrator, mediation focuses on compensating the victim and reintegrating the offender into society. This way, both parties can voice their concerns and receive compensation. The main condition for mediation is the presence of a person recognised as a victim of a crime. Accordingly, as noted by J.J. Igartua and A.F. Hayes (2021), mediation cannot be used for crimes against the environment, drug trafficking, national security. According to the authors, in such cases, there is no direct victim, and the harm is caused to society as a whole, but despite this limitation, mediation can be used for a wide range of other crimes where there is a specific victim. It should be borne in mind that not all criminal conflicts can or should be resolved through mediation. There are criteria for its implementation as a form of restorative justice related to the specifics of the object and subject of the crime, its social danger, and the position of the parties. In particular, mediation is not possible if one of the parties refuses, as well as in cases of serious or especially serious crimes related to domestic violence, or if one of the parties has mental disorders or substance abuse (Ali & Anwar, 2021).

Since Ukrainian legislation provides for opportunities for reconciliation between the victim and the offender, there is a discussion in the scientific literature about the feasibility of introducing mediation into criminal proceedings if the institution of a reconciliation agreement already exists. K. Bansak (2020) identifies these legal institutions. He notes that mediation has a broader restorative potential and can satisfy the interests of the parties much more fully than simple reconciliation. It should be added to the author's opinion that an agreement in criminal proceedings is not mediation in the classical sense. Firstly, an obligatory element of mediation is the participation of an independent intermediary (mediator) who helps the parties reach an agreement. However, the current legislation does not provide for the mandatory participation of a mediator to resolve a criminal law conflict but allows the parties to seek the assistance of another person, including a mediator, to reach a reconciliation agreement (Ladychenko *et al.*, 2022). However, this is a discretionary provision – the parties can either exercise this right or conclude an agreement without involving a mediator.

In their works on determining the status of a mediator in criminal proceedings, D. Febrianto *et al.* (2023) emphasise that only the criminal procedural aspects of the mediator's activities should be outlined. They should not relate directly to the mediation procedure. When defining the rights and obligations of a mediator as a participant in criminal proceedings, the principle of autonomy of mediation in criminal justice should also be considered. Considering the rights and obligations defined in the Law of Ukraine No. 1875-IX "On Mediation" (2021) as the basis of the legal status of a mediator, it is advisable to outline only the powers of a mediator specific to criminal proceedings in the Criminal Procedure Code of Ukraine (2013). It is worth noting certain specifics of criminal legal relations. Mediation is possible only in the presence of an injured party, where the suspect/accused is on the one hand and the victim is on the other. Thus, mediation cannot be conducted, for example, in cases of crimes against the environment or drug trafficking, against the foundations of national security (Yuzheka, 2023).

The scientific literature often equates mediation and a conciliation agreement, raising the question of the expediency of mediation in the presence of such an agreement (Tio, 2023). In this regard, it should be noted that the current Criminal Procedure Code of Ukraine (2013) does not provide for the mandatory presence of a mediator when concluding a conciliation agreement. It may be concluded with the help of a person agreed upon by the parties to the criminal proceedings, except for the investigator, prosecutor or judge. The mediation procedure is impossible without the involvement of an impartial and independent person (mediator) agreed upon by the parties to the proceedings. However, this is not an obstacle for the parties to engage a mediator to agree. Second, the content of the mediation agreement does not contain structured components provided for in the conciliation agreement. It is worth noting that such an agreement must be approved by the court in a guilty verdict, which approves it and determines the punishment agreed by the parties. Mediation, on the other hand, is based on the provisions of the Criminal Code of Ukraine (2001) and the Criminal Procedure Code of Ukraine (2013) on exemption from liability or punishment.

Settlement of disputes through negotiations is in line with the principle of peaceful settlement of disputes, which is a fundamental principle of international law. Despite some shortcomings, the institution of mediation should be a complement to the existing criminal justice system, which will also reduce the workload of the courts. Mediation has not been sufficiently studied in Ukraine, but it has significant potential for wider implementation. At the same time, mediation programmes cannot completely replace the justice system but should operate in close connection with it. For the active implementation of mediation, it is important not only to legislate for it but also to scientifically substantiate its positive and negative effects and possible risks. Therefore, it is advisable to use international experience and cooperate with foreign partners in this area.

Conclusions

This study was conducted to determine the peculiarities of the mediation process in criminal proceedings under martial law in Ukraine. It was determined that the need to improve the institution is associated with the overload of the judicial system due to the partial or complete destruction of instances and the change in the territorial jurisdiction of 195 courts. This makes it important to expand the use of alternative dispute resolution methods at all stages of proceedings.

According to the study results, mediation in criminal cases in Ukraine is currently limited to reconciliation between the suspect and the victim, but international documents oblige to expand the use of mediation. In other countries, this institution is successfully used as an alternative to punishment or to mitigate it. Since the judicial system in Ukraine is overloaded in the context of the war, mediation can help solve this problem, as evidenced by the experience of other countries. The question of what kind of conflict is resolved by mediation in criminal cases in Ukraine was addressed. In this regard, it was noted that, since this is not a property dispute in a civil lawsuit, the goal is to resolve the conflict between the victim and the suspect regarding the latter's guilt. The following advantages of mediation

under martial law were identified: reducing the burden on the courts, speeding up the resolution, and allowing for changes in the location of the participants. The results of mediation may be the basis for agreements between the parties. The importance of providing the victim with free legal aid to represent interests in court during the consideration of such agreements was emphasised.

To guarantee human rights and restorative justice in the context of the war in Ukraine, international assistance is needed to reform the justice system and implement international standards. It is also necessary to develop information technology, in particular process automation, to increase the efficiency of justice. Concerning restorative justice, it is important to ensure adequate protection for victims, including access to legal aid, as well as rehabilitation and support for those involved in the conflict. Further research will be aimed at conducting a detailed analysis of the functioning of the mediation institution in different countries.

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Conflict of interest

None.

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Анотація. Актуальність дослідження обумовлена тим, що для покращення механізму захисту прав громадян в умовах повномасштабного вторгнення необхідним є розвиток альтернативних способів вирішення спорів. Виходячи з цього, мета роботи полягає у проведенні аналізу інституту медіації у кримінальному провадження з урахуванням особливостей воєнного стану. Для цього було використано низку методів, а саме формально-юридичний та герменевтичний, догматичний метод, логічний аналіз та функціональний. У результаті проведення дослідження було виокремлено, що у кримінальних провадженнях медіація застосовується лише для примирення потерпілого з підозрюваним. Дана процедура може стати шляхом вирішення проблеми, пов'язаної з перенавантаженням судових інстанцій та потенційного затягування вирішення спорів. Було виокремлено, що згідно з чинним законодавством, угода про примирення у справах про домашнє насильство може бути укладена лише за бажанням потерпілого. Далі було встановлено, що потерпілий також має мати можливість ініціювати медіацію у випадках, пов'язаних із скоєнням таких порушень. Було запропоновано внести до законодавчих норм обов'язкову участь представника потерпілого у кримінальному провадженні, особливо у разі прийняття рішень щодо звільнення під випробуванням, заміни невідбутої частини покарання менш суворим, або умовно-дострокового звільнення від відбування покарання. Було розглянуто шляхи підвищення гарантій прав людини в медіативній процедурі в умовах воєнного стану. Практична значущість отриманих результатів полягає у наданні рекомендацій щодо вдосконалення сучасного механізму даного інституту в кримінальному провадженні

Ключові слова: відновне правосуддя; альтернативний спосіб; повномасштабне вторгнення; права людини; звернення громадян

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Electronic documents as resources for sociological research on the level of security of financial and legal relations

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Abstract. Electronic documents, such as contracts, court decisions, financial reports, etc., can contain valuable information about social factors that affect the security of financial and legal relations. Analysis of these documents helps to identify the interrelationships between public trust, power, technology, and other social phenomena in the context of their impact on the security of individuals and society as a whole. The purpose of the article is to determine the possibilities of using electronic documents as resources for sociological research to assess the level of security of financial and legal relations. The study uses historical and logical methods to highlight the current state of affairs in the field of digital data analytics, and the methods of comparison and generalization form the basis for classifying risk indicators available in the texts of electronic documents. It is indicated that in the context of the spread of digital interaction between people, understanding the sociological aspects of their behaviour reflected in electronic documents becomes key to assessing the risks of illegal financial transactions. The article substantiates the important role of electronic documents as a valuable resource for sociological research. The study is based on an interdisciplinary approach, highlighting the possibilities of integrating sociological analysis, network research, linguistic pattern recognition and data mining methods to obtain meaningful information from large amounts of electronic documents. The main results of the study include the classification of indicators of illicit financial transaction behaviour present in the texts of electronic documents. The study highlights the practical value of using electronic documents in sociological research, offering practical guidance for government officials, lawyers, and analysts to improve risk assessment and develop security measures. The materials systematized in this study demonstrate the potential of open-source intelligence (OSINT) and advanced data analytics to build meaningful sociological models using electronic documents, highlighting their importance in addressing contemporary security analytical challenges

Keywords: digitalization, behaviour, risk, security, cybersecurity, rights protection, big data, data mining, OSINT

Introduction

The issue of using electronic documents as resources for sociological research in determining the level of security of financial and legal relations is relevant in the context of modern digitalization processes. By analysing electronic documents, it is possible to study the dynamics of financial transactions, identify possible risks and violations of legal

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norms. This allows effectively identifying and responding to potential security threats, contributing to the development of effective management strategies and legislative regulation. The use of electronic documents in sociological research also expands the possibilities of collecting objective information, which is key to understanding the dynamics and interpretation of modern financial and legal processes. In addition, the use of electronic documents helps to increase the efficiency of research by providing quick access to large amounts of data and automated processing. Collecting and analysing digital data also contributes to the development of innovative methods of identifying patterns in financial and legal relations, which allows security and management strategies to be adapted to a rapidly changing environment.

Many scientific studies by domestic and foreign scholars have been devoted to the issue under study. For example, A. Macanovic (2022) conducts text mining for the social sciences, focusing on the current state and future development of computer text mining. R. Wenzel and N.V. Quaquebeke (2018) explore the opportunities and risks of using big data in organizational and management research, emphasizing the dual nature of big data, such as offering enormous opportunities and benefits, while also being accompanied by significant challenges and risks. M. Glassman and M.J. Kang (2012), M. Hachem *et al.* (2023) study the emergence and evolution of open-source intelligence (OSINT) in the era of the Internet and total digitalization, emphasizing its role in intelligence gathering. C. Hoffman *et al.* (2024) use a group trajectory approach to predict the criminal careers of new hackers, placing an emphasis on the importance of cybersecurity.

The study of socio-economic factors that encourage investors to invest in cryptocurrencies, the study of factors of distrust and speculation, and the identification of security threats to the dissemination of false information and Internet rumours based on sociological principles are the focus of W. Chu *et al.* (2021), R. Auer and D. Tercero-Lucas (2022), H. Ogbeide *et al.* (2023). O. Pidkhomnyi *et al.* (2019) use the example of Ukraine to study trust as a factor affecting pricing and shadowing of the national economy.

A number of scientific papers are devoted to the problem of assessing the risks of money laundering, terrorist financing and developing effective measures to counter illegal financial transactions, taking into account the use of electronic documents and the results of sociological research. The works by S. Klimova *et al.* (2020), I. Moiseenko *et al.* (2021) present the results of research on modern approaches to risk assessment and automation methods in commercial banks in relation to money laundering and terrorist financing, and the construction of algorithms for identifying money laundering risks. The article also discusses the use of machine learning to build a national anti-money laundering index, which would help improve the results of risk assessment in financial systems. At the same time, the issues of increasing the efficiency and reliability of the use of electronic documents in conducting sociological research on the level of security of financial and legal relations, ensuring legal certainty and protection of financial relations in the context of digitalization and rapid adaptation to changes in the field of electronic documentation require special attention and resolution.

The purpose of the study is to determine the possibilities of using electronic documents as resources for sociological research to assess the level of security of financial and legal relations. To achieve this goal, the following tasks need to be addressed: to substantiate the role of electronic documents as a valuable resource for sociological research; to study the relationship between electronic documents and legal processes, to determine how these technologies affect legal certainty and security of financial relations; to analyse electronic documents related to financial transactions in order to identify potential risks and security threats; to classify identifiers (indicators) that may be contained in electronic documents; and reflect the risks of illegal financial transactions; develop recommendations for risk prevention and management.

Materials and methods

The study was based on information from the available scientific and specialized literature and methodological tools developed by other researchers in the fields of law, sociology, information technology and security. By synthesizing modern knowledge and methodological ideas, the authors of the article deepened interdisciplinary connections and ensured that a number of theoretical and methodological provisions were aligned with the established practice of preparing analytical materials on security issues.

Given that the assessment of the level of security of financial and legal relations is closely related to the assessment of money laundering and terrorist financing risks, analytical, regulatory and law enforcement agencies are establishing close cooperation to continuously improve the methodology for assessing the relevant risks. For example, Ukraine's Methodology (OSCE, 2018) for conducting a National Risk Assessment (NRA) serves as a framework for identifying and analysing money laundering and terrorist financing risks; it outlines the criteria, factors, and processes for investigating these risks. The relevant methodologies are typically based on a risk-based approach, where resources are allocated based on the level of risk associated with specific customers, transactions, or business relationships. This approach allows for a more targeted and efficient allocation of resources to mitigate money laundering and terrorist financing risks. Therefore, the conclusions of the study are based on a risk-based approach, which involves analysing relevant social problems using the concepts of "threat" and "vulnerability", assessing the potential for threats to affect vulnerabilities, and predicting the relevant social consequences.

For the purpose of the study, the author selected a set of scientific methods designed for a comprehensive analysis of digital data analytics and classification of risk indicators that can be identified through the study of electronic documents. The article uses general scientific research methods, in particular, historical and logical methods to highlight the current state of affairs in the field of digital data analytics; comparison and generalization methods to classify risk indicators available in the texts of electronic documents.

The combination of historical and logical methods allowed deepening our understanding of the evolution of digital data management practices and the consequences of their proliferation for security in the financial and legal sectors. Based on the historical development of electronic document systems and the use of logical analysis of cause-and-effect relationships, the current state of affairs in this area is described and ways for further research are outlined.

The methods of comparison and generalization made it possible to classify the risk indicators present in the texts of

electronic documents. Through a systematic comparison of the content elements of different types of electronic documents, such as regulatory documents, statistical data, and analytical reports of government agencies, NGOs, and international organizations, the author has identified general patterns and risk indicators that indicate the vulnerabilities of the positions of various entities in financial and legal relations.

The study was based on various materials, including legal documents regulating the circulation of electronic data (Law of Ukraine No. 851-IV…, 2003; Resolution of the Cabinet of Ministers of Ukraine No. 55-2018-p…, 2017; United Nations, 2022), analytical materials (OSCE, 2016) on the risks of offences and typical incidents (Potts, 2019), as well as guidelines from institutions specializing in security and compliance with national and international law. The use of these materials ensured the reliability and relevance of the research results.

Results and discussion

In the context of the methodology of sociological research of various spheres of social life in the context of digitalization, an electronic document is a digital record or textual artefact containing relevant social information, interaction, and discourse, accessible through digital information processing tools. The peculiarity of electronic documents is their ability to provide financial and legal information in real-time. Electronic documents often contain archives of historical financial information, which makes it possible to conduct long-term studies of the behaviour of individuals or groups of individuals to track changes and developments in financial issues over long periods. Such long-term studies allow understanding the evolution of financial phenomena and the effectiveness of systemic solutions in terms of legal regulation of public life. Both quantitative and qualitative research can be conducted with the help of electronic documents.

At the same time, an understanding of the social context, economic conditions, and potential vulnerabilities can help develop and improve the national methodology and conduct the National Risk Assessment. In addition to generalized assessments of existing threats and vulnerabilities, electronic documents can be used to investigate individual episodes of criminal activity. The leading document at the international level that provides guidance for such investigations is the Berkeley Protocol (United Nations, 2022). The Berkeley Protocol was developed as the first-ever guide to the effective use of open-source information in international criminal and human rights investigations. It was created to formulate professional standards and guidelines for the identification, collection, preservation, verification, and analysis of digital information from open sources. According to the Berkeley Protocol's principle of legality, open-source investigations must comply with the requirements of applicable law. One of the key aspects of the Berkeley Protocol's legality principle is the emphasis on measures to verify the authenticity and reliability of visual content, such as videos and photographs, that arise from crises around the world. This verification process is essential to ensure that the information used in an investigation meets legal and ethical standards. In an increasingly digitized world, the Berkeley Protocol's drafters hope that it will help online investigators (lawyers, human rights defenders, journalists, and others) develop and implement effective procedures to document and verify violations of international humanitarian and criminal law, making best use of digital information from open sources, so that those responsible for these violations are fairly held accountable. Among the important methodological provisions of the Berkeley Protocol is the instruction that investigators should take into account gender, age, geography, socio-economic differences and demographic information.

Finance and law are intrinsically linked, as the legal framework defines the rules and regulations that govern financial transactions and systems in general. Laws are crucial for ensuring transparency, fairness, and accountability in financial markets, protecting investors' rights, and maintaining economic stability at the institutional level. Financial regulations, whether they relate to banking, securities, or taxation, are integral components of the legal system that governs financial activities. At the same time, financial relations often require legal assessment and legal expertise.

As is well known, sociologists can conduct quantitative content analysis to measure the frequency of specific financial characteristics, terms, or intentions in legally relevant documents. At the same time, they can use qualitative methods to gain a clear understanding of the content of financial discourses (Jonušaitė & Ullman, 2024). The advantage of using electronic documents is their ease of use, which allows comparing financial issues in different regions, countries, or time periods without any obstacles or restrictions. This helps to identify similarities and differences in financial practices and policies of different actors, contributing to a deeper understanding of financial and legal issues.

Another promising area of electronic documents is the study of the impact of financial policy on social change and the level of security of individual actors, the state as a whole, and international security. By studying management financial documents that reflect certain decisions and public feedback, researchers can assess the effectiveness and impact of financial regulation on different social groups, taking into account levels of financial literacy (Beytía & Müller, 2022) and public trust (Pidkhomnyi *et al.*, 2019). The multidimensionality of topics, situations, objects, and events reflected in electronic documents (ThumalaOlave, 2020; Beytía & Müller, 2022) equates these documents to paper and audiovisual documents in terms of their significance. Electronic documents can record not only the fact of an event, but also reflect its external manifestations. For example, a document in the form of a website can simultaneously convey the content (what a certain subject said) and the form (how they said it) of a particular event. At the same time, such documents have a complex form that affects the further processing of the information they contain.

Sociological research using electronic documents makes it possible to identify various patterns and ideas related to social behaviour, relationships, and interactions in the field of finance. In this regard, the following patterns are worth highlighting:

- the spread of sentiment on social media, for which sociologists use electronic documents from social media platforms to analyse likes and dislikes, identify patterns of public opinion and emotions about specific social issues, activities, or political events (Chu *et al.*, 2021)
- the identification of online communities, when sociologists use electronic documents in social media to analyse online communities and forums that share common interests, use words and language constructs specific to a

particular community, or participate in specific discussions related to social, financial, or political topics;

- radicalization processes, where electronic documents can be used to identify relevant online posts by studying how extremist ideologies are spread and the information and psychological impact on people to decide to join or support violent groups;
- the influence of opinion leaders, when the analysis of electronic documents makes it possible to identify opinion leaders and influencers in online discussions and on social media platforms, which gives an idea of how individuals shape public opinion;
- the formation of social problems, in relation to which, by analysing electronic documents, sociologists identify various frameworks and discourses used by the media and online platforms to highlight and interpret social problems, influence public perception and debate;
- the functioning of social networks of criminal organizations (Hachem *et al.*, 2023; Hoffman *et al.*, 2024), where sociological research using electronic documents reveals patterns of social networks of people involved in activities such as cybercrime, money laundering, human and drug trafficking, etc;
- public reactions to policy changes, when electronic documents, including media articles and online discussions, are used to study public reactions to policy changes to understand how political decisions affect different social groups;
- the formation of distinct cultures and subcultures (Thumala Olave, 2020), in which sociologists analyse electronic documents from different regions and countries to make cross-cultural comparisons to understand how social phenomena and attitudes to certain issues differ in different societies.

These and other examples demonstrate the diverse applications of sociological research based on electronic documents, highlighting the importance of digital data for understanding contemporary social dynamics and informing decision-makers with evidence-based information.

Without a doubt, the results of sociological research based on electronic documents can have not only social but also legal significance and be used in various legal contexts, including civil disputes, criminal investigations, and, in particular, in the evidence base of experts. Sociological research can be used to support legal arguments in court cases, or to justify legal acts, or to assess their constitutionality based on sociological evidence. In cases where electronic documents are used as evidence, sociological research can be used to authenticate and verify the reliability and relevance of the data. Such research can help to assess the social harm caused by certain actions or policies, which can be relevant for determining remedies and penalties. The results of sociological research can be relevant to legal discussions on privacy and data protection, especially when it comes to online platforms and electronic communication.

Electronic documents are becoming increasingly common in legal practice due to the digitalization of information and communications (Resolution of the Cabinet of Ministers of Ukraine No. 55-2018-p..., 2017; Order of the Cabinet of Ministers of Ukraine No. 1467-p..., 2021). These documents may include emails, text messages, social media posts, electronic contracts, digital photos, videos, and other types of digital files. In court cases, e-documents are treated in the same way as traditional paper documents, but there are some unique features and challenges associated with their use.

One of the main challenges associated with electronic documents is ensuring their authenticity. Unlike physical documents, which can often be verified with signatures or seals, electronic documents require authentication methods such as digital signatures, metadata analysis, and forensic analysis. Lawyers can use special methods and tools to authenticate electronic documents to ensure that they are admissible in court. Electronic documents are subject to the same rules of record keeping and research as traditional documents (Law of Ukraine No. 851-IV..., 2003). At the initial stage of litigation, the parties are required to produce relevant electronic documents in their possession, custody, or control. This may include a wide range of computer systems, servers, and other electronic data storage devices for the purpose of identifying and collecting relevant evidence. For electronic documents to be admissible in court, they must meet the same evidentiary standards as traditional documents. This includes relevance, authenticity, and reliability. Practitioners may need to consider the storage system for electronic evidence and expert testimony as to its authenticity and accuracy. Practitioners should also consider the legal provisions on confidentiality and data protection (Law of Ukraine No. 851-IV..., 2003) when dealing with electronic documents. Depending on the jurisdiction, there may be specific rules governing the collection, storage, and disclosure of electronic information. Failure to comply with the relevant requirements may result in legal consequences and affect the admissibility of electronic evidence in court.

Examining electronic documents can provide valuable sociological information that may be relevant to legal arguments. For example, analysing social media posts or emails can reveal behavioural patterns, social attitudes, or relationships relevant to the case. Sociological arguments based on the examination of electronic documents can be used to prove or disprove allegations, establish motive or intent, or provide context for other evidence. Also, sociological arguments arising from the study of electronic documents may include an understanding of the impact of technology on communication, record-keeping, and information management patterns within organizations. These arguments may be relevant in legal practice when assessing the reliability, authenticity, and context of electronic documents.

With the advent of automation tools and texts in electronic form, starting in the 1960s, content analysis of large volumes of text – databases and interactive media sources – has developed rapidly. The traditional political use of modern content analysis technologies has been supplemented by an unlimited range of headings covering industrial and social spheres, culture and science, finance, and law. This process, in turn, was accompanied by the development of numerous software systems.

Another interesting feature of content analysis is that this methodology has long been associated with a specific area of human activity (politics and sociology). Nevertheless, today content analysis is increasingly being used in many areas of political and economic life, which contributes to the growth of the applied value of financial concepts, legal categories, sociology, and linguistics used in the process of content analysis. Content analysis in the context of information flow research is a relatively new area that involves the analysis of an array of text documents obtained as a result of monitoring the information space.

In the era of modern technology, sociological research is based on the use of *big data*, electronic data mining and OSINT (Open Source Intelligence) technology – intelligence based on open sources of information. The term "big data" is commonly used to describe a number of different concepts: from the collection and aggregation of huge amounts of data to a wide range of advanced digital methods designed to identify patterns related to human behaviour. It is worth noting that big data creates new opportunities and challenges for sociological research due to a number of circumstances. Firstly, it is the availability of data and access to it. Big data has exponentially increased the availability of large and diverse datasets, including social media content, digital archives, administrative records, and the results of sociological surveys. Sociologists can access these large datasets and study social phenomena on a large scale and with a high level of detail. Big data provides sociologists with the resources to conduct large-scale quantitative analysis. It allows researchers to identify patterns, correlations, and trends in huge data sets, providing a robust statistical understanding of social behaviour and related trends. Big data often involves real-time data streams and historical numerical data sets, enabling sociologists to study social phenomena that evolve over time. This ability to capture temporal dynamics improves understanding of complex social processes.

In this regard, sociologists can use big data (Lahiani & Frikha, 2023) to formulate hypotheses and identify trends, and the combination of quantitative and qualitative methods allows for a deeper understanding of social dynamics. In addition, big data provides a unique opportunity to study human behaviour and various types of interaction in the digital space. Social media data, for example, helps to understand public sentiment, opinions, and trends that dominate society.

Meanwhile, the use of big data in sociology raises ethical issues related to confidentiality, consent to use, and data ownership. In this regard, sociologists must address these issues responsibly, ensuring the protection of the rights of the people being studied and the confidentiality of their personal data. Big data can challenge existing sociological theories and offer new empirical evidence to build new theories. This allows hypotheses to be tested on a scale that was previously unattainable with smaller data sets. Big data analysis leads to interdisciplinary collaboration, so sociologists can participate in interdisciplinary research to use the technical expertise needed to analyse big data. Sociologists can play a crucial role in interpreting and contextualizing the results of big data research for policy development and public decision-making.

At the same time, some researchers emphasize the wide range of opportunities and risks associated with the big data paradigm, the data itself, and the analytical methods used. According to R. Wenzel and N.V. Quaquebeke (2018), big data as a paradigm can be a double-edged sword, capable of significantly improving the tools of relevant research, but also causing a negative reaction if not used properly. New possibilities of using large-scale textual sources in sociological research are discussed by A. Macanovic (2022). Analysing a number of modern methodological developments, the author points out the important consequences of using large datasets and computational methods to determine the complex meaning of texts, and along with traditional methods, suggests using text mining tools.

In general, the use of big data in sociology creates both opportunities and challenges. Sociologists should be aware of the limitations and biases of these data sources and take steps to ensure that their analyses are accurate and reliable. By using computational tools and innovative research methods, sociologists can gain new insights into social phenomena and explore questions that were previously difficult to answer. However, they also need to be aware of the ethical considerations involved in using big data and take steps to ensure the accuracy and reliability of their analyses.

The relationship between sociology and data mining is characterized by the application of data mining techniques to sociological research, which involves the process of identifying patterns, trends, and insights in large data sets. These techniques help researchers draw conclusions based on evidence. For example, clustering and classification methods help identify patterns and relationships in sociological data, so sociologists can uncover hidden connections and group similar entities based on specific characteristics. Using a quantitative approach to the study of sociological phenomena makes it possible to measure the prevalence of certain types of behaviour or trends based on empirical evidence from a single study. Data mining allows sociologists to test hypotheses on a large scale of research objects to check the relationships between variables and to confirm or refute theoretical assumptions.

Furthermore, data mining allows sociologists to create predictive models based on historical data, to predict future trends and the behaviour of individuals in social systems (Maciejewski *et al.*, 2022). Data mining techniques can also be applied to textual data, such as social media content or qualitative responses in surveys. Text mining helps to extract important insights from unstructured data, allowing researchers to analyse large amounts of text efficiently. Data mining speeds up the research process by automating tasks that would be time-consuming using traditional methods. This efficiency allows sociologists to process larger data sets and draw more comprehensive conclusions. This method can be used in combination with other research methods, such as surveys and interviews, to provide a more complete and deeper understanding of social phenomena and processes.

It is interesting that the results of research by Chinese scientists have confirmed the thesis that combining social science theory and methodology with big data analysis is effective (Luo *et al.*, 2019). This has allowed for the identification of a number of new topics for big data analysis and the conduct of qualitative and quantitative sociological research to provide a basis for verifying the results of data mining. The evidence obtained as a result of such analysis can contribute to the development of theory and the construction of predictive models to draw conclusions and explain numerous phenomena. Using the example of Internet data from the Chinese venture capital industry, the authors substantiate the three-way interaction between data mining, sociological theory, and predictive models.

Thus, data mining involves the process of extracting useful information and knowledge from large volumes of documentary resources. As the amount of available data has increased with the development of digital technologies, sociologists have come to rely more on data mining to gain a deeper understanding of the complex social world. In sociology, data mining is used to analyse large amounts of

electronic resources to identify patterns and trends in social behaviour. This approach allows sociologists to go beyond traditional research methods to study complex social issues such as poverty, inequality, and crime. By using data mining techniques, sociologists can gain new insights into social behaviour that would be difficult or impossible to discover using traditional research methods.

The relationship between sociology and OSINT is the use of open-source intelligence as a valuable source of information for sociological research (Pellet *et al.*, 2019). OSINT refers to the process of collecting and analysing information from publicly available sources such as websites, social media platforms, online databases, news articles, and government publications. OSINT is the result of the changing relationship between people and information due to the emergence and growing dominance of the Internet in everyday life. The Internet opens up new possibilities for accessing information and going beyond the overly deterministic traditional cultural intelligence in solving cognitive problems (Glassman & Kang, 2012).

OSINT also provides sociologists with access to a huge amount of electronic documents that can be collected from various online sources to study social behaviour, public sentiment, attitudes, and trends. OSINT data can be collected in real time to study and monitor current social events and phenomena as they develop. OSINT sources often provide contextual information that helps social scientists understand the broader social, financial, and legal context in which social phenomena occur. OSINT can be used in combination with other data sources, such as surveys, interviews, and archival data, to triangulate results and strengthen the validity of sociological research. In general, the use of OSINT in sociology provides researchers with a powerful tool for studying social phenomena, identifying patterns and relationships that may not be available using traditional research methods.

In the context of assessing the level of security of financial and legal relations, sociology can be very useful for conducting a national money laundering risk assessment (OSCE, 2016). By understanding the problem of money laundering as a complex social phenomenon involving a variety of actors, their behaviours, and institutions, sociological approaches can provide valuable insights into the underlying social dynamics and contextual factors that contribute to money laundering risks. This includes analysing the social structures that facilitate money laundering, studying the relationships between financial institutions, businesses, and criminal networks (Klimova *et al.*, 2020; Moiseenko *et al.*, 2021; Ogbeide *et al.*, 2023). Sociological research can encompass the study of the organizational culture of financial institutions and businesses that are prone to money laundering practices. By analysing financial reports, corporate communications, news flows, and social media content, sociologists can identify the preconditions and signs of potential money laundering operations. Understanding the cultural norms and values that may facilitate or hinder action is also important for effective risk assessment. Social network analysis can reveal patterns of cooperation and communication between individuals and entities involved in illicit financial activities, including cryptocurrency trafficking (Auer & Tercero-Lucas, 2022). Electronic documents used in sociological research can indicate the methods used by criminals, their relationship with legitimate financial systems, and information on public perception and understanding of financial crime. The study of money laundering at the level of national risk assessment has significant prospects for automation (Zhang *et al.*, 2023).

Money laundering clearly has significant social impacts, including funding organized crime and undermining public confidence in financial systems. Sociological research can assess the impact of money laundering on society and contribute to the development of targeted anti-money laundering policies and prevention strategies. The results of sociological research can also be used to inform national terrorist financing risk assessments. Terrorism and its financing are complex social phenomena, and sociology can provide valuable insights into the underlying social dynamics and contextual factors that contribute to terrorist financing risks. Terrorist financing often takes place through informal financial systems, which makes it important to study informal networks, ways of transferring, concealing and laundering funds through social connections and informal channels. The study of electronic documents through digital platforms can help sociologists examine online content and communications related to radicalization processes and the spread of extremist ideologies that could potentially lead to terrorist financing.

Evidence-based sociological research plays a crucial role in informing law enforcement. By applying the scientific method and conducting case studies, sociologists can provide valuable information and evidence-based recommendations to improve policing strategies and practices. For example, Evidence-based policing (EBP) is an approach that relies on the use of scientific research and evidence to inform law enforcement decision-making. It involves analysing research findings and implementing strategies that have been proven to reduce crime and increase public safety. EBP helps law enforcement agencies make informed decisions about resource allocation, crime prevention, and community engagement (Potts, 2019).

Sociological research contributes to the development of preventive policing strategies targeting “hot spots, hot people and hot times” based on knowledge gained from crime analysis. By identifying high-crime areas and individuals at risk, law enforcement agencies can more effectively allocate resources and implement targeted crime prevention measures. Sociological research supports the implementation of community policing, which emphasizes cooperation between law enforcement agencies and the communities they serve. Research has shown that building trusting relationships with community members can increase the effectiveness of law enforcement. Sociological research helps to identify effective strategies for engaging with the public and provides insight into the social dynamics that affect the relationship between society and the police. Modern information technologies make it possible to conduct at least some of such research on the basis of electronic documents using OSINT methods.

Sociological studies of people’s propensity to engage in illegal activities can become more effective by focusing researchers’ attention on the presence of certain types of indicators in electronic documents. Based on the study, the author grouped the indicators whose presence and prevalence in the texts of electronic documents can be used to assess the risk of illegal financial transactions in a particular society and analyse the relevant trends (Table 1).

Table 1. Groups of risk indicators available in electronic documentation

Presence of mentions and reputation on the Internet	Evaluating Internet mentions and public perception of certain organizations or individuals involved in financial transactions.
Past incidents	Review of historical data in documents to identify patterns of conflict behaviour, incidents that may indicate ongoing participation in illegal financial transactions.
Mentions of detected violations	References in electronic documents to inspections, monitoring, and their results or attempts to evade detection. Such references may indicate awareness of control systems and intentions to circumvent relevant procedures.
Compliance indicators	Assessment of compliance by the organizations or persons referred to in the documents with the relevant provisions of the law, especially with regard to the requirements for the financial monitoring system. Non-compliance or circumvention of regulatory measures may indicate illegal financial activity.
Anomalies in reports and declarations	Cases of inconsistent or suspicious information in financial reports and declarations may indicate potential attempts to conceal illegal activity. By studying such anomalies, researchers can contribute to a more detailed understanding of the social dynamics affecting financial transactions and help identify priority areas for regulatory intervention and risk mitigation strategies.
Changes in behaviour	Detecting changes in behaviour or sudden changes in the roles of organizations or individuals mentioned in the documents. Sudden changes may indicate involvement in illegal activities, which is reflected in the way of life. Fixation of manipulative actions with elements of social engineering requires special attention.
Unusual use of language	Certain threats can be detected by analysing text for unusual language patterns or coded communication that may indicate attempts to hide illegal financial transactions.
Unusual transaction patterns	Checking the details of the transactions mentioned in the documents for anomalies such as irregular frequency, amounts, or methods. Sudden changes in transaction patterns can signal potential risks.
Unusual technological activity	Technological manipulations in electronic documents may include indications of hacking, encryption, or other cybercrime – related activities.
Connections and relations	It is important to pay attention to networks of individuals or organizations mentioned in electronic documents in positive or negative contexts. It is necessary to identify patterns of relationships, cooperation, or associations that may indicate involvement in illegal financial activities.
Ownership structures	Valuable information can be obtained from the results of data analysis on the structure of ownership and control of economic entities. Opaque ownership or control schemes may raise suspicions.
Unusual geographical connections	Unusual ties to high-risk jurisdictions may indicate potential involvement in illicit financial activity. In relevant studies, it is advisable to use content guidelines formed in the field of sociology of international relations.

Source: developed by the authors

Verification of the authenticity of information in sociological research electronic documents is crucial for ensuring the credibility of research results. Electronic documents may have various sources, so it is important to use a system of methods to assess their reliability. Verification of information authenticity encompasses a range of criteria, including: source credibility (it is worth evaluating the trustworthiness and reputation of sources providing electronic documents, considering that reliable sources may include government publications, authoritative information organizations, scientific journals, and official financial reports from well-known institutions); transparency of data collection (methods of filtration or sampling should be applied); data verification (cross-referencing data from multiple sources may reveal discrepancies or errors); triangulation (allows combining analysis of electronic documents with other data sources such as surveys, interviews, or official statistics to enhance the reliability and credibility of conclusions); timestamps (focused attention on such details helps contextualize data and determine if they align with the study's timeframe); data plausibility and consistency (assessing the correspondence of information in electronic documents with existing knowledge and theoretical foundations, establishing the consistency and coherence of data with established facts); metadata usage (identification of authorship, publication date, and version history to assess data reliability and authenticity); bias and objectivity (consideration of potential political or commercial interests and their likely influence on research results, striving for objectivity in data interpretation); sample representativeness (ensuring the ability of the sample to reproduce the main characteristics of the population to avoid misleading conclusions); expert review and collaboration (conducting expert assessment and organizing collaboration with other researchers to obtain external validation of results ultimately enhance the accuracy and reliability of the research).

Overall, by following the recommended steps and considerations, sociologists can enhance the reliability of information obtained from electronic documents and increase trust in the results of their research. Thorough data assessment ensures that sociological research based on electronic documents contributes to a valuable and fact-based understanding of social phenomena and behaviour.

Conclusions

In general, electronic documents play a crucial role in modern legal practice, and lawyers must be able to deal with the unique challenges and generate and verify versions of such documents. From authentication and admissibility, on the one hand, to privacy issues and sociological analysis, on the other, electronic documents present both opportunities and challenges in the administration of justice.

OSINT technology is a valuable resource for sociological research, providing researchers with a wide range of publicly available data to study social phenomena and identify the level of complexity of society. By incorporat-

ing OSINT into their research methodologies, sociologists can gain valuable insights into social behaviour, attitudes, and trends, and contribute to a deeper understanding of social dynamics and their implications for individuals and communities.

By focusing on understanding social structures, behaviour and context, sociology is a valuable discipline for conducting national money laundering and terrorist financing risk assessments. By applying sociological findings, policymakers, and authorities can develop more informed and targeted strategies to combat money laundering and promote the integrity and transparency of the financial system. By using e-document data, sociologists can gain insight into the social dimensions of money laundering and terrorist financing risks and make a significant contribution to the development of more effective anti-money laundering and counter-terrorism measures.

Electronic documents are an integral part of modern legal practice, and their use is regulated by specific rules and, in some countries, case law. These regulations ensure proper authentication, admissibility, and management of electronic documents in the workflow process. Sociological arguments related to electronic documents can provide additional criteria for assessing and understanding the practices and behaviours of various actors involved in the creation and use of the relevant media.

By integrating modern methods of sociological research with automated information processing, a deeper understanding of the social factors that influence the security of financial and legal relations can be gained. The use of an interdisciplinary approach will facilitate the development of a new or improvement of the existing methodology for national risk assessment, considering the proposed groups of indicators. The use of the latest digital technologies and methods of statistical analysis will increase the accuracy of the results of the national risk assessment and thus facilitate the implementation of effective risk management measures.

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Conflict of interest

There is none.

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Електронні документи як ресурси соціологічного дослідження рівня безпеки фінансових і правових відносин

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Анотація. Електронні документи, такі як контракти, судові рішення, фінансові звіти тощо можуть містити цінну інформацію про соціальні чинники, які впливають на безпеку фінансових і правових відносин. Аналіз цих документів допомагає виявити взаємозв'язки суспільної довіри, влади, технологій та інших соціальних явищ у контексті їхнього впливу на рівень безпеки окремих індивідів і суспільства загалом. Метою статті є визначення можливостей використання електронних документів як ресурсів для соціологічних досліджень щодо оцінки рівня безпеки фінансових і правових відносин. У дослідженні використано історичний і логічний методи для висвітлення сучасного стану справ у сфері аналітики цифрових даних, методи порівняння й узагальнення стали основою класифікації індикаторів ризиків, наявних у текстах електронних документів. Вказано, що в умовах поширення цифрової взаємодії між людьми розуміння соціологічних аспектів їх поведінки, що мають відображення в електронних документах, стає ключовим для оцінки ризиків нелегальних фінансових операцій. У статті обґрунтована важлива роль електронних документів як цінного ресурсу для соціологічних досліджень. Дослідження опирається на міждисциплінарний підхід, висвітлюючи можливості інтегрування соціологічного аналізу, мережевих досліджень, розпізнавання лінгвістичних шаблонів та методів інтелектуального аналізу даних, щоб отримати значущу інформацію з великих масивів електронних документів. Головні результати дослідження включають класифікацію присутніх у текстах електронних документів індикаторів поведінки, пов'язаної з незаконними фінансовими операціями. Дослідження підкреслює практичну цінність використання електронних документів у соціологічних дослідженнях, пропонуючи практичні орієнтири для урядовців, правників та аналітиків щодо покращення оцінки ризиків і розробки заходів безпеки. Матеріали, систематизовані в цьому дослідженні, демонструють потенціал розвідки на основі відкритих джерел (OSINT) і розширеної аналітики даних для побудови значущих соціологічних моделей з використанням електронних документів, підкреслюючи їх значення для вирішення сучасних аналітичних проблем у сфері безпеки

Ключові слова: діджиталізація, поведінка, ризик, безпека, кібербезпека, захист прав, big data, data mining, OSINT

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