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Human rights preservation and protection in the face of global risks and threats: The importance of democracy and ways to enhance it

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Abstract. The research relevance is determined by the Russian full-scale invasion of Ukraine, which poses an unprecedented threat to human rights not only in Ukraine but also throughout the world. The study aims to provide a comprehensive analysis of the effectiveness of human rights protection in the context of global threats, including military conflicts. The paper examines in detail the concept of democracy and its key role in ensuring fundamental rights and freedoms of citizens. It is shown that it is the democratic system that guarantees the exercise of such fundamental rights as freedom of speech, freedom of association, participation in government, equal access to justice. The study analyses the destructive impact of global threats, in particular the COVID-19 pandemic and the full-scale war in Ukraine, on the human rights situation in the world. Based on statistical data, it is concluded that the weakening of democratic institutions in the face of threats leads to massive human rights violations and creates favourable conditions for the spread of authoritarian tendencies. The author substantiates the need to strengthen international cooperation and mutual support of democratic countries to counter global challenges and protect human rights. Specific recommendations for improving international human rights mechanisms are proposed. The results of the study are of value for further research on the promotion of human rights in the context of global instability

Keywords: autocracy; freedom of speech; human rights; pandemic; Russian-Ukrainian war; rule of law

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Introduction

The Russian-Ukrainian war is currently seen as the main threat to democratic regimes in the world. After all, it undermines the foundations of national security, restricts the rights and freedoms of citizens, and violates the principles of equality and the concept of human centrism, which is the basis of most democracies in the world. However, the current democratic deficit is not only caused by this factor but also by the impact of previous events, including the COVID-19 pandemic. Thus, the research relevance is determined by an array of threats that democracies around the world, including Ukraine, are currently facing against the backdrop of the Russian-Ukrainian war and the consequences of the COVID-19 pandemic.

The study by U.V. Movchan (2022), which offers an overview of the impact of the full-scale Russian invasion on the democratic development of different countries of the world, is particularly noteworthy. The author points out that most researchers characterise the Russian political regime as authoritarian, but with the beginning of a full-scale invasion of the Ukrainian state, it is worth noting its change towards totalitarianism. This, according to the researcher, is associated with the prohibition of alternative media, as well as the restriction of fundamental rights and freedoms of citizens regarding freedom of speech and expression. The impact of the Russian-Ukrainian war can also be felt not only in Europe but also in Africa and the Middle East (Borko & Vilks, 2023).

The struggle between autocratic and democratic authorities is highlighted by O.V. Buryachenko (2023). The author points out that the Russian full-scale invasion of Ukraine also means an attack by autocratic regimes on democratic ones, therefore it is important to determine whether modern world democracies can withstand this attack. The researcher also notes that the activities and responses of the United Nations (UN) do not comply with the fundamental principles of liberal democracy and therefore need to be reformed. The study also draws attention to the fact that the global security system has shown its vulnerability and inability to consolidate to uphold the principles of democracy, such as equality, inclusiveness, and solidarity. Y. Zhai (2023) investigates the way Chinese individuals perceive three distinct forms of governance, namely government of the people, by the people, and for the people, without explicitly referring to the term “democracy”. The concept of popular sovereignty is highly favoured by the Chinese populace. Citizens who possess a comprehensive comprehension of democracy, which is founded on a system of governance by the people, express discontentment with the nation’s current state of democracy and voice their disapproval of authoritarian political practices. The general comprehension of democracy, which centres around the concept of a government that represents the interests of the people, can paradoxically align with a proclivity towards authoritarian governance.

The role of the Russian hybrid warfare in the construction and functioning of democratic states is discussed by T. Andriyevskyy (2019), pointing out that it is a series of disinformation campaigns and manipulation of democratic values and principles that create the basis for undermining equality and freedom of expression in different societies, and thus contribute to their polarization. D.A. Chyzhov (2022) is based on the consideration of human rights protection in the field of national security. The need to safeguard human rights and freedoms has become more crucial due to contemporary threats and the growing prevalence of armament and terrorism. International human rights instruments establish the fundamental criteria for safeguarding national security and provide the conceptual framework for the subsequent advancement of specific international standards in different domains.

O.A. Yurchenko and K.V. Filipchuk (2023) accurately described the COVID-19 coronavirus pandemic and its impact on democracy and human rights. In particular, it is noted that the spread of coronavirus disease, and several migration processes along with it, has led to a significant restriction of human rights and freedoms at all levels, including freedom of movement. Thus, the democratic values that have been developing and functioning for many years are at risk of being levelled. The spread of the pandemic has shown the unpreparedness of public authorities to combat this threat, which has naturally weakened democratic regimes and their role on the global stage (Yara *et al.*, 2023). The impact of COVID-19 was also discussed by P. Guasti (2020). It identifies two patterns of response among CEE populist leaders: the rise of autocracy and democratic resilience. In Hungary and Poland, the populist leaders used the state of emergency to increase executive power, contributing to the rise of autocracy. On the other hand, the Czech Republic and Slovakia demonstrated democratic resilience in the face of the crisis.

The issue of the threat of the spread of autocracy was studied by O.A. Lavrynovych (2022). The author points out that after the weakening of democratic regimes due to the impact of the coronavirus pandemic, the growth of autocrates are now characterised by greater flexibility and consistency. The democratic regression has become the basis for the further spread of narratives about the greater effectiveness of autocratic regimes in countering global threats (Spytska, 2023). Instead, the issue of the impact of global threats on the transformation of the democratic worldview was considered by V. Haponenko and V. Rykhlik (2022). The researchers observed positive changes in the development of democratic awareness within civil society, such as the heightened engagement in social initiatives, the unification of perspectives, the enhanced cohesion of society, and the reinforcement of social capital. Despite the threats to democracy in Ukraine and the world, such as Russian aggression, scholars emphasise the need to support democratic values and use their potential for further democratic development through regulatory frameworks, information policy, patriotic education, and tolerance.

The analysis of these works leads to the conclusion that the issue of modern threats to democracy is relevant and necessary to be covered, but the challenges of today require a comprehensive analysis of such factors as the pandemic, the Russian-Ukrainian war and to identify certain correlations between these facts; to propose ways to strengthen democracy and to affirm the values and principles of the said legal regime. Thus, the study aims to assess the impact of the COVID-19 pandemic as a precondition for further globalisation threats and challenges on the state of democratic regimes and their effectiveness in the context of military confrontation.

Materials and methods

The research was conducted utilising various methodologies of scientific knowledge. The historical method, which examines the emergence, formation, and development of objects

in chronological order, has been instrumental in elucidating the evolution of democracy as a legal phenomenon. It has shed light on the distinctive characteristics of democracy in different periods and its relevance for contemporary society.

The analysis method was useful in the study of the concept of democracy and the elucidation of its characteristics, fundamental principles. This method was also used to identify the concepts and forms of democratic regimes inherent in most rule-of-law countries and to identify the defining features of these forms. The use of the synthesis method together with the analysis method allowed the author to identify several global challenges and threats to democratic regimes and the impact of these challenges on the legal situation. The author examined the relationship between the COVID-19 coronavirus pandemic and Russia's full-scale invasion of Ukraine; the synthesis method also made it possible to identify both the real and potential consequences of these threats for global democracies; it was used to distinguish between approaches and concepts to improve the effectiveness of democratic regimes in the current environment and reduce the impact of authoritarian regimes on the world order and transitional legal regimes.

The formal-logical method was used to study theoretical developments and initiatives for comprehensive reform of democracy as a legal phenomenon, ways and means of improving institutions and organisations whose activities are aimed at spreading democratic ideas, as well as the possibility of creating new models of democracy that differ from the classical options. It is also worth mentioning the comparative legal method, which helped to study the authoritarian regime, which is different from the democratic one, in particular the aspects in which they differ, their prevalence and leverage over other legal regimes. This method was also used in conjunction with the statistical method to highlight the impact of global threats on democratic and authoritarian regimes in the world; thus, the study was conducted on the examples of Ukraine, Russia, Sweden, Canada, Poland, Italy, as well as Turkey and China by comparing democracy indicators from 0 to 10 during 2018-2022. The source used to research and present relevant statistics was the Economist Intelligence Unit (2023). It should be added that the statistical and abstraction methods were also used to determine the likely indicators of democracy deficit in two main scenarios, one in which the factor of the COVID-19 coronavirus pandemic was present and the other in which this factor was absent.

It is also worth mentioning the forecasting method, which allowed us to study the future development of democratic regimes, considering current threats and challenges, in the example of Ukraine and Russia; these indicators were obtained using the International Futures (IFs) model (2023). Induction, a method of scientific cognition that involves the study of the movement of knowledge from the particular to the general, was used to examine the reasoning and results of scholars, considering controversial aspects and new data within the research topic, and formulating a general conclusion.

The main document regulating human rights and freedoms is the Constitution of Ukraine (1996), Article 21 which states that all people are free and equal in dignity and rights. In addition, the Constitution of Ukraine (1996) stipulates that the state is responsible to its citizens for ensuring human rights and freedoms and defines the direction of the state's activities aimed at establishing and guaranteeing these rights and freedoms. Thus, the main task of the state is to ensure legal protection and realisation of the rights and freedoms of citizens. In turn, the Universal Declaration of Human Rights (1948) is an international act that ensures the regulation and observance of civil rights and freedoms. It serves as a global model for the protection of fundamental rights and freedoms, influences international law, inspires activism, guides legislation, and promotes international cooperation. The Universal Declaration of Human Rights (1948) plays a vital role in holding governments and organisations accountable for human rights violations, raising awareness and advocacy, combating discrimination, and ultimately serving as a beacon of hope and a shared commitment to uphold the dignity and rights of all people around the world.

Results

Global threats and challenges of our time call into question the ability of democratic systems to effectively protect human rights. In the context of growing geopolitical instability and the spread of authoritarian tendencies, preserving the principles of democracy and the rule of law is of particular importance. Democracy and human rights are interconnected and interdependent concepts, as democratic institutions can guarantee the inalienable rights and freedoms of individuals. Therefore, strengthening the democratic foundations of public life should be seen as the most important factor in protecting human rights against global threats.

A democracy is a political regime in which the source of power is the people; the state is governed not directly, but through elected representatives (Boese *et al.*, 2021). The following are considered to be the key features of a democratic regime:

- free and fair elections that are held by the legal requirements and rules;
- active participation of citizens in political and public life;
- focus on protecting and guaranteeing fundamental human rights and freedoms;
- rule of law and independence of the judiciary;
- transparency of government decision-making.

The concept of democracy as the power of the people originated in ancient Greece, where all male citizens over the age of 18 could vote in assemblies where laws were passed. The emergence and development of the Roman Republic contributed to the spread of Greek ideas about democracy. In the Middle Ages and the following centuries, various forms of ideas about the forms of democratic regime emerged, in particular, through the emergence of self-government. The American War of Independence, which began in 1776, and the subsequent founding of the USA were a landmark moment for the development of democracy in its modern form, notably through a decentralised system based on checks and balances, the separation of powers into three branches, and the enshrinement of fundamental rights and freedoms at the constitutional level (Welzel, 2021). With the extension of suffrage during the 19th and 20th centuries to ordinary men, women and minorities, democracy gradually spread across regions of Europe, Latin America, and beyond (Dingwerth *et al.*, 2020).

Concerning the practical implementation of democracy and its main forms, it is worth highlighting the classical model – liberal democracy, which is based on civil liberties and rights, individual freedom, and the ability to influence the state to meet both personal and public interests.

There is also the concept of pluralistic democracy, which is based on freedom of thought and expression, consideration of the interests of all members of society. Other concepts include corporate democracy, cosmopolitan democracy elitist democracy.

The legal regime of authoritarianism, characterised by centralised power and limited political freedoms, is different from the democratic one (Sharp, 2022). In addition to these features, it is worth highlighting that political power under the respective regime is concentrated in the hands of a small group of people under the leadership of a single ruler, there is no system of checks and balances, political pluralism is limited, there is no opposition, and civil rights, such as freedom of the press, assembly, speech. are not sufficiently guaranteed and protected. Thus, drawing a comparison between these two political regimes, it is possible to conclude that a democratic regime includes the separation of powers and protection of civil rights and freedoms, in contrast to an authoritarian regime where power is vested in a small ruling group and freedom of speech and expression, is limited.

Although democracy is recognised as a universal form of political regime and consolidates most of the fundamental principles of the rule of law, it is worth noting that this regime is currently facing several global threats and challenges. These threats include the rise of populism and the spread of authoritarianism, which lead to the erosion of civil liberties and equality in society. A decline in trust in such important institutions of a democratic regime as the government, media, and judiciary; and the spread of disinformation (Guasti, 2020).

It is worth noting that the impact of these factors has increased significantly due to the spread of the COVID-19 pandemic. In many countries, governments have imposed restrictions on freedom of movement, freedom of assembly and other civil liberties to control the spread of the virus. These restrictions were necessary to protect public health, but they also raised concerns about the erosion of democratic freedoms. The pandemic has also exacerbated existing inequalities and vulnerabilities in many societies. This increased polarisation and social unrest. In addition, the pandemic has created opportunities for authoritarian governments to consolidate power (Starr, 2021). Some governments have used the pandemic as a pretext to suppress dissent and restrict the media.

To illustrate the relevant impact, it is useful to provide some statistical data (Fig. 1). Based on the proposed division of political regimes by The Economist, it is worth examining the democratic regimes of several countries of each form of regime during 2018-2022. Thus, Sweden and Canada should be considered as representatives of full democracy; Poland and Italy as imperfect democracies; Ukraine and Turkey as hybrid (transitional) regimes; and Russia and China as authoritarian regimes. Countries are assessed based on 60 indicators ranging from 0 to 10 points.

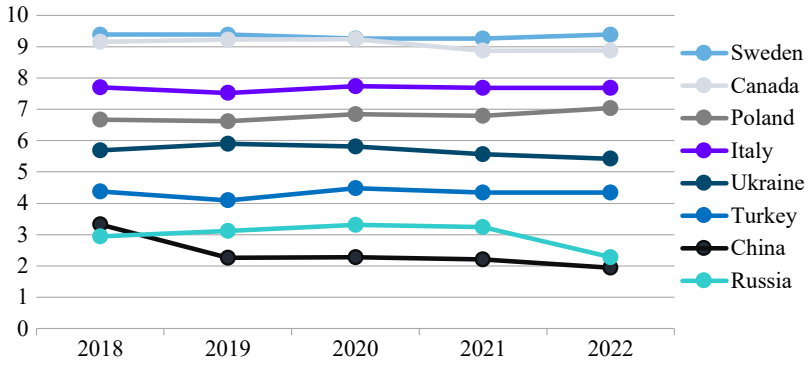

Figure 1. Global democracy index 2018-2022
Source: compiled by the authors based on Economist Intelligence Unit (2023)

Data demonstrate that the pandemic has been the largest source of the decline in the development of democratic freedoms since 2020, and it is worth noting that this decline has been most pronounced in fully or imperfectly democratic countries The reason for this was significant restrictive measures aimed at reducing the spread of the pandemic, but at the same time, it also meant expanding the powers of public authorities, which citizens did not agree with.

Figure 1 also shows that in 2022, the democracy index of some countries returned to its initial level from 2018, which can be attributed to the lifting of restrictions on the rights and freedoms of individuals, including freedom of movement. However, it is worth noting that countries such as Ukraine, Russia, China, and Turkey have not returned to higher democratic freedom scores. For example, China's policy on anti-epidemic measures resulted in an index score that is the lowest since 2006. The Russian Federation also recorded the largest democratic decline, which was not due to the policy of stopping the spread of the pandemic, but to the invasion of Ukraine, which led to tighter control over the media and widespread suppression of uprisings, rallies. It is worth exploring the possible democratic deficit in a scenario where there is no such global threat as the coronavirus pandemic and, on the contrary, it is present as an influence factor (Fig. 2).

The democratic deficit is the lack of influence and importance of democratic principles, norms, and practices in a society (Zhai, 2023). It can be manifested, for example, in the impossibility of opposition parties or candidates, violation of voting rights, lack of impartial justice, restrictions on freedom of speech, censorship. Figure 2, according to the International Futures (IFs) model (2023), shows that the risks of such a deficit and a diminished role for democracy in the world could be lower in a scenario without the COVID-19 pandemic.

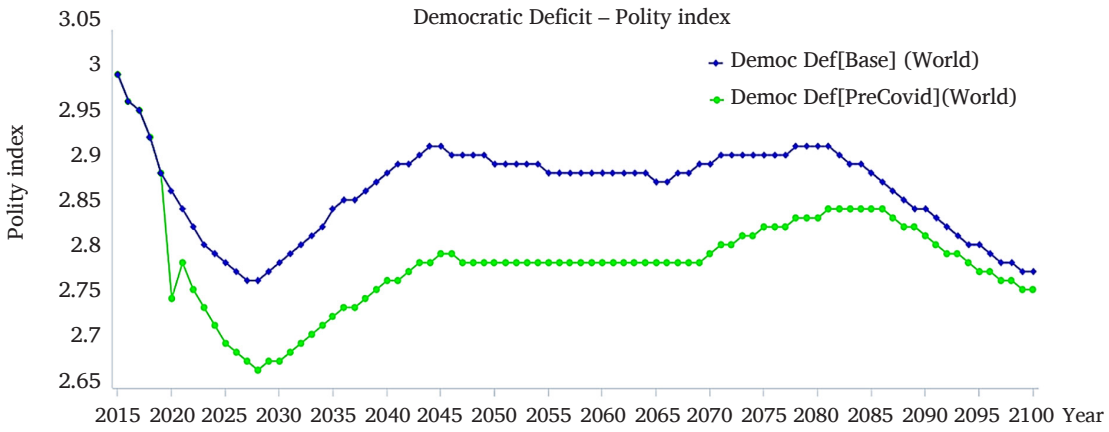

Figure 2. Democracy deficit in two scenarios: real (green line) and non-Covid-19 scenario (blue line)
Source: compiled by the authors based on International Futures (IFs) model (2023)

In general, it is worth noting that the two main events associated with the democratic crisis – the coronavirus pandemic and the Russian-Ukrainian war – have clear interconnections. For example, the pandemic has weakened democracy, exacerbated the polarisation of society, forced democratic regimes to resort to measures of imperative and authoritarian coercion that have meant significant restrictions on fundamental rights and freedoms of citizens; it has exacerbated the sense of distrust in governments and their ability to address global threats, as it has shown an unwillingness to act decisively and with integrity (Afsahi *et al.*, 2020). The period in which democratic regimes could have been restored – 2022 – marked the beginning of the Russian-Ukrainian war as another global crisis, the response to which was identical to that of the pandemic. Russian military invasion led to an increase in energy and food prices and triggered a migration crisis, which in turn again led to the polarisation of society in both European and other countries, dissatisfaction with government actions. It is also worth noting that authoritarian regimes are taking advantage of this situation to strengthen their positions in domestic politics, using the rhetoric of the need to protect their citizens (Wackenhut & Orjuela, 2023).

It is advisable to examine in more detail the impact of the Russian-Ukrainian war on democratic regimes, in particular in the United States and Europe. Thus, the respective countries have significantly increased military spending and budgets, and the corresponding change in priorities not only causes resistance from society but also significantly reduces the resources that could be used to support democratic institutions. The war has disrupted Europe's energy supply, forcing countries to look for alternative energy sources and reconsider their dependence on Russian gas (Kuzemko *et al.*, 2022). The refugee crisis has put a strain on the social sector. Geopolitical forces are grouped into pro-Russian and pro-Western sides, which reduces the middle space for democracies that want to be non-aligned. Many emerging democracies are facing pressure to support Russia due to economic or food dependence. The Russia-Ukraine war has led to a decline in democracy in transition countries, including Turkey.

The impact of the war on democracy is particularly noticeable in Ukraine and Russia. Given the imposition of martial law due to the Russian invasion, it is worth noting the restriction of certain rights and freedoms of citizens and the foundations of the democratic regime, including freedom of speech, expression, and pluralism. For example, by the Law of Ukraine No. 2849-IX "On Media" (2022), a ban was imposed on the broadcasting of news resources with Russian connections and origins, as well as a ban on access to resources of Russian origin. The right to assemble and demonstrate, as guaranteed by the Constitution of Ukraine (1996) and other legal acts, has also been restricted. Due to the full-scale invasion, the number of internally displaced persons (IDPs) and refugees outside the Ukrainian border has increased. Under these conditions, the country cannot guarantee the full safety and security of the former and latter, so there is a risk of economic dependence, labour slavery, as well as restrictions on labour rights, expansion of employers' rights regarding working conditions, changes to employment contracts.

In Russia, the impact of the invasion is noted in the area of freedom of speech and expression, in particular through restrictions on opposition, the elimination of human rights and freedoms (Rød *et al.*, 2020). Thus, the war is a pretext for strengthening the authoritarian regime of the ruling elites and spreading this influence on transitional democracies and other regimes. It is reasonable to state that Russia's invasion of Ukraine poses a significant threat to democratic regimes around the world, including in Europe (Sloss & Dickinson, 2022). The immediate and long-term consequences of the war will depend on the outcome of the conflict, with potential implications for military spending, energy security, refugee crises and the overall sustainability of democratic institutions. It is also worth noting that, when considering scenarios for the end of the war, it is the scenario in which Ukraine wins that could mark a new beginning for the development of democratic regimes and the principles that underpin them. The path to this scenario is possible only through the continued support of Ukraine by world leaders and countries through the supply of both funding and weapons. This path is not focused on quick results, but on long-term consequences, which are to establish the values of democracy, which include the priority of human rights and freedoms, their protection and guarantee.

Further development of democracy in Ukraine and Russia is also noteworthy (Fig. 3).

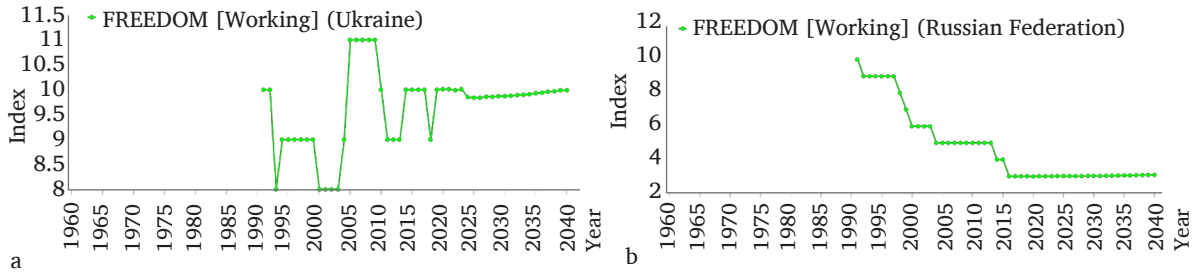

Figure 3. Estimated development of democracy in: a) Ukraine and b) Russia until 2040
Source: compiled by the authors based on International Futures (IFs) model (2023)

The data clearly illustrate the difference between the further development of democracy in Ukraine and Russia, but it should be noted that this cannot be an accurate indicator of the security of global democracy, given the influence of authoritarian regimes on countries in transition to democracy. Thus, the illustrated decline of democracy in Russia may become a determining factor for the development of other authoritarian regimes, and, accordingly, with more authoritarian regimes, pressure on world democracies through diplomatic, economic, and military factors increases; the role of democratic values is weakened, their importance, effectiveness, universality, and defensibility are levelled.

Protecting human rights and democracy amidst global risks and threats necessitates collaborative endeavours involving governments, civil society, international organisations, and other stakeholders. Possible strategies for enhancing democracy and safeguarding human rights encompass the cultivation of democratic norms, promotion of global equity, fostering collaboration and alliances, and preservation of the environment.

Discussion

The COVID-19 pandemic has led to an increase in authoritarianism and democratic deficits around the world (Frederiksen, 2022). Authoritarian regimes such as China and Russia have used the crisis to strengthen their power. Using the crisis in the democratic development of countries, Russia launched a full-scale invasion of Ukraine. Thus, both the Russian-Ukrainian war and the pandemic have raised questions about the capacity of democracy to respond effectively to global risks and threats.

The issue of the overall impact of the pandemic on the world order is highlighted by S.C. Greitens (2020). It is pointed out that the pandemic has acted as a catalyst, accelerating existing trends in governance and legal regimes. The increased use of digital technologies to track contacts, communicate and disseminate information has shifted the boundaries between the public and private spheres. The pandemic has also further widened the gap between democracies and authoritarian regimes. Democracies have generally implemented surveillance measures with greater transparency and accountability, while authoritarian regimes have used the crisis to justify further expansion of their mechanisms and means of control (Popovych, 2023). The study argues that international cooperation is needed to address the challenges of surveillance in a way that is consistent with democratic values, including the establishment of principles of transparency, accountability, and human rights protection in the context of surveillance practices. The author's findings partially confirm the results of this paper, in particular in terms of analysing the impact of the pandemic on the development of democratic regimes. It is reasonable to agree that the spread of COVID-19 has only increased the polarisation of society, and tension between representatives of different legal regimes, and has also become a prerequisite for the spread of authoritarian influence in countries in transition.

C. Norrlöf (2020) explored the potential impact of COVID-19 on liberal democracies and the international order. The author argues that the pandemic has been and remains a unique challenge for this type of democratic regime, in particular, because it is characterised by openness and the guarantee of individual freedom, so restricting the relevant features, although consistent with the needs of quarantine restrictions, is contrary to democratic values. Among the negative consequences of these restrictions, the researcher notes the strengthening of state control and interference, the development of populism, a decrease in public confidence in public authorities, as well as a weakening of the overall state of democracy in the world, deterioration of international cooperation and an escalation of confrontation between authoritarian and democratic regimes. It is worth noting that the results of the researcher's findings are consistent with those of this paper, but it is necessary to complement them with ways to reduce the impact of the pandemic on democratic regimes, such as increasing transparency and accountability of decision-making at the state level, thus restoring public trust, and establishing cooperation at all levels between fully formed democracies and democracies in transition.

Similar issues were explored by M. Kneuer and S. Wurster (2022). They point out that the pandemic has forced governments to take strict measures to contain the spread of the virus, which in some cases has led to restrictions on democratic rights. These measures included quarantines, curfews, bans on public gatherings and restrictions on freedom of movement. While these measures have been necessary to protect public health, they have also raised concerns about the erosion of democratic boundaries. The article also argues that the pandemic has not necessarily led to the erosion of democracy, but rather exacerbated existing problems. For example, countries that already had weak democratic institutions were more likely to see a decline in democratic rights during the pandemic. The pandemic also had a significant impact on democratic institutions. Overall, it is worth noting that the authors' findings are partially consistent with the results of this paper and provide a valuable analysis of the link between the pandemic and the weakening of democracy. It is also reasonable to agree with the authors' conclusions that the pandemic was not a direct consequence of the democratic deficit, but only accelerated the relevant processes.

A study of the impact of not only the pandemic but also the Russian-Ukrainian war on democratic institutions and the European Union as a whole was presented by V. Anghel and E. Jones (2023). The authors point out that both crises have intensified various aspects of decision-making and decision-making in the EU, in particular by circumventing traditional decision-making procedures and introducing exceptions that demonstrate the unity of democratic regimes, flexibility and solidarity. The researchers note that despite the overall demonstration of solidarity, there have been some internal divisions within the EU. For example, some member states were more hesitant than others to impose harsh sanctions or actions against Russia or to provide military assistance to Ukraine. These differences raised questions about the EU's ability to make collective decisions and act effectively in the face of external threats. They also raised the question of the EU's ability to defend the democratic values that underpin the union. Although the authors' findings only partially confirm the results of this paper, they are important to consider. In particular, by highlighting both positive and negative effects of the Russian-Ukrainian war on democratic values within the EU. Indeed, although the EU has shown solidarity in many aspects of economic, military, and other assistance, some contradictions do not correspond to the values that are fundamental to the development of democracy (Kotsur, 2023).

The study by H. Landemore (2020) is particularly noteworthy, as the author argues that democracy is currently in crisis and needs a new approach and new principles. The researcher proposes a new model of democracy, which he calls "open democracy". Open democracy is based on the idea that everyone should have the opportunity to participate in the political process. This model, according to the author, would solve several problems associated with the lack of citizen participation in and influence on decision-making. Thus, it is proposed to create new advisory bodies, namely groups of citizens who come together to discuss important issues at the state level and form a general public opinion. The author's findings do not confirm the results of this paper, although the author's reasoning is logical and driven by the current democratic deficit and threats to the regime. However, it should also be added that the creation of a new model of democracy may be an unjustified measure; it is more appropriate to formulate and implement a comprehensive approach to reforming democracy and establishing this regime as a guarantor of human rights and freedoms, which will include the development of transparency in decision-making, international cooperation and support for transitional democracies, both financially and diplomatically, to offset their dependence on authoritarian regimes (Chochia *et al.*, 2018).

A study of democracy, its essence, and the causes of the crisis, was conducted by A. Przeworski (2019). Democracy is defined as "a political mechanism in which people, through elections, choose a government and influence this process". Democracy, according to the researcher, is not stable and faces periodic crises. The factors that negatively affect the democratic regime are economic inequality, social polarisation, technological changes, globalisation challenges (Sannikov, 2017). The results presented in the author's paper partially coincide with the results of this paper. It is reasonable to agree that democratic regimes are characterised by a certain instability; for example, most democracies were not prepared for the global threat of the pandemic and the Russian-Ukrainian war, so these factors led to a certain decline and halted the development of democracy. To reduce the impact of these threats, it is worth focus on protecting democracy in Ukraine through economic, military, and diplomatic cooperation. Such protection may include guaranteeing the rights and freedoms of individuals, immediate response to violations of the terms and customs of war. An important role is also played by the UN, whose activities should also be aimed at supporting and developing democratic values, countering disinformation and influences from authoritarian regimes.

Conclusions

The study underlines the importance of human rights protection in the context of global risks and threats. The analysis shows that democracy faces significant threats and challenges in the modern world. The COVID-19 pandemic led to restrictions on rights and freedoms in many countries, exacerbated inequalities, increased polarization in society, and created opportunities for authoritarian consolidation of power. The war in Ukraine also poses risks for democracy, including through impacts on military spending, energy security, refugee crises, and erosion of civil liberties.

The data indicates a decline in democracy globally during the pandemic, with a partial recovery in 2022 as restrictions were lifted. However, countries like Russia and China have continued on an authoritarian trajectory. Scenario analysis suggests the risks of a democratic deficit could have been lower without the pandemic. Ukraine and Russia demonstrate divergent potential democracy pathways, with Ukraine projected to make gains if it emerges victorious in the war, while Russia is expected to decline further into authoritarianism. However, the spread of authoritarianism worldwide remains a threat to global democracy.

This study highlights the importance of considering human rights as an integral part of the global security context. Building strong international relations and cooperation with democratic countries, as well as reforming intergovernmental organisations, are becoming urgent tasks to ensure human rights amid global instability. The proposed recommendations relate to improving international human rights mechanisms, including supporting transitional democracies, actively combating authoritarianism, and backing Ukraine as a symbol of the struggle for democracy and human rights. To achieve these goals, protecting human rights and democracy necessitates unified efforts across governments, civil society, international groups and other stakeholders. Feasible approaches involve strengthening democratic institutions, furthering global justice and cooperation, guaranteeing environmental sustainability, and creating new forms of democratic practice.

Further research in the area of global risks and threats could focus on analysing the impact of environmental issues, cyber threats, geopolitical conflicts, the resilience of democratic institutions, and the role of international organisations in ensuring stability and human rights.

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Conflict of interest

None.

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Збереження та захист прав людини в умовах глобальних ризиків та загроз: важливість демократії та шляхи її зміцнення

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Анотація. Актуальність дослідження зумовлена повномасштабним вторгненням Російської Федерації в Україну, що становить безпрецедентну загрозу правам людини не лише в Україні, а й у всьому світі. Метою роботи є комплексний аналіз ефективності захисту прав людини в умовах глобальних загроз, зокрема військових конфліктів. У роботі детально досліджується поняття демократії та її ключова роль у забезпеченні основних прав і свобод громадян. Показано, що саме демократичний лад гарантує реалізацію таких фундаментальних прав як свобода слова, свобода об'єднань, участь в управлінні державою, рівний доступ до правосуддя. Проаналізовано деструктивний вплив глобальних загроз, зокрема пандемії COVID-19 та повномасштабної війни в Україні, на стан дотримання прав людини у світі. На основі статистичних даних зроблено висновок, що послаблення демократичних інститутів в умовах загроз призводить до масових порушень прав людини та створює сприятливі умови для поширення авторитарних тенденцій. Обґрунтовано необхідність посилення міжнародного співробітництва та взаємної підтримки демократичних країн для протидії глобальним викликам та захисту прав людини. Запропоновано конкретні рекомендації щодо вдосконалення міжнародних механізмів захисту прав людини. Результати дослідження становлять цінність для подальших наукових розвідок з питань утвердження прав людини в умовах глобальної нестабільності

Ключові слова: автократія; свобода слова; права людини; пандемія; Російсько-українська війна; верховенство права

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Visa liberalisation and labour migration: Legal and economic implications for Kosovo

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Abstract. Throughout the years of Kosovo's independence, the country has formed certain relations with neighbouring states and with Western Europe, but the significant simplification of the border crossing procedure with the Schengen area, which came into force on 1 January 2024, requires a review of the existing balances and the formation of up-to-date assessments of possible consequences. The study aims to predict the further development of Kosovo-EU relations in the context of migration processes. Statistical and retrospective analysis methods were used to study the key economic indicators of previous years regarding the prospects for the redistribution of labour resources. The study proves the positive development of the Kosovo economy by analysing such important economic indicators for previous years as gross domestic product, unemployment rate, net migration from Kosovo, average wages in the country, and the volume of remittances received by the economy from labour migrants working abroad. A dedicated study was conducted on Kosovo's relations with its neighbouring countries – Albania, Serbia, Montenegro, and North Macedonia. In the context of labour migration processes, the experience of Kosovars working in these countries was assessed, and changes in labour market balances caused by visa liberalisation were predicted. Based on the data obtained and the conclusions drawn, a forecast was made regarding the economic and political consequences of visa-free travel for Kosovars: the prospect of working in the Schengen area will be used by those citizens of the Republic of Kosovo who are already working abroad, and there will be no significant outflow of the labour resources available in the country. The practical significance of the study lies in the modelling of further development of the labour market in Kosovo, which will be useful for managers of state-owned enterprises and large private employers in formulating their HR strategies

Keywords: European integration; labour market; labour shortage; repatriation; dynamic development

Introduction

Since 2015, Kosovo has been on a steady path of sustainable economic growth: incomes have increased by 50%, while poverty has fallen by 35% to historic lows, according to the World Bank (2023c). The country has finally moved away from a subsidy model and dependence on foreign aid tranches, thanks to steady consumption growth, investment in technology projects, and an increase in human capital, thanks to the help of the diaspora and the return of migrant workers.

One of the markers of the Republic of Kosovo's correct development on the European path was the adoption in January 2023 by the European Parliament's Committee on Civil Liberties, Justice, and Home Affairs (LIBE) of a visa liberalisation for the country's citizens. According to this decision, from the beginning of 2024, Kosovars will be able to cross the Schengen area without any additional permits under the European system of the European Travel Information and Authorisation System (ETIAS), which digitally processes data on those travelling to the EU. Such a step by the EU demonstrates the growing trust in the republic's citizens and significantly strengthens Kosovo's integration into the European community. However, despite the strong pace of economic development in Kosovo, the existing reforms are not enough, and the state must continue to increase its productivity, which has been repeatedly highlighted by the national academic community. The challenges faced by the labour market in Kosovo were highlighted by A. Haziri and

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B. Shala (2021) and A. Loku *et al.* (2021). Given the unbalanced fiscal system, the unemployment rate in the country remains high, as evidenced by the number of applications for work visas from Kosovars in Croatia and Germany. The demand for labour within the country remains quite low, and to remedy this situation, the authors believe that fundamental reforms are needed, such as simplifying the procedure for writing off corporate debts, changing the value-added tax (VAT) rate, raising the minimum wage, additional duties on the import of cheap Serbian products.

Tourism is an important area of economic development in Kosovo. Several Orthodox monasteries of the Patriarchate of Peć, which are part of the UNESCO World Heritage Site, can become the object of a real tourist boom with sufficient informational and infrastructural support from the state. I. Kovaçi *et al.* (2021) studied the tourist region of the Albanian Alps, showed the predominance of small and medium-sized tour operators, and proved the need to develop a state sectoral strategy that would ensure a variety of services for travellers and the creation of entire ethnic-style tourist clusters. The impact of public investment on economic growth and development was studied by F. Miftari *et al.* (2021). After analysing the impact of disaggregated public expenditures, transfers, and subsidies on the development of the Republic of Kosovo, the authors proved that these financial processes have a strong positive correlation with gross domestic product (GDP), while capital investment expenditures show a much smaller relationship with it. Accordingly, using regression analysis, the authors concluded that public investment projects do not significantly affect economic growth in the republic.

F. Sahiti (2021), conducting a comparative analysis of the economies of Kosovo and other countries, examined the impact of political and macroeconomic institutions, human capital, and access to finance on the activities of private enterprises. The results of the study showed that, compared to the reference countries, entrepreneurship in Kosovo faces numerous constraints, which means that for further full-fledged business development, it is necessary to use European experience and accelerate further economic liberalisation. Referring to the sensitive topic of labour migration in the Republic of Kosovo, it is worth mentioning the study by L. Hajdari and J. Krasniqi (2021). By examining the relationship between economic development and emigration from Kosovo between 2015 and 2020, the authors argue that some EU countries opened up legal migration routes for highly skilled migrants from the Western Balkans, which increased the outflow of specialists in vital sectors such as healthcare and IT. However, all of these studies were conducted before the visa liberalisation between the Republic of Kosovo and the EU, which started on 1 January 2024.

The purpose of this study is to forecast the legal and economic impact of this event on migration processes in the country.

Materials and methods

In the course of the study, the following methods were used: statistical analysis, synthesis, and comparison method. In particular, the method of comparison was used to compare data for previous years on such key development indicators as gross domestic product, unemployment, and average wages. In addition, the literature review method was used to analyse a range of scientific works by Kosovo and foreign authors. As part of the theoretical study, the analysis method was also used to assess the impact of migration on the labour market in the Republic of Kosovo and current trends in the formation of human capital. In addition, using the method of retrospective analysis, the author studied the important stages of the creation of independent Kosovo, which later became factors in the formation of inbound and outbound migration policy. The synthesis method was used to systematise and combine data in this area obtained from such sources as the Organisation for Economic Co-operation and Development (OECD), the European Training Foundation (ETF).

The materials used for this study included analytical reports by the World Bank on GDP, unemployment, migration and wages in the Republic of Kosovo, information from the Kosovo Statistics Agency on the historical context of the labour market in the Republic, as well as information from the United Nations Development Programme (2020) on the relationship between the labour market and migration in the country. A dedicated analysis of trends such as the dynamics of net migration from 2008 to 2021 and the impact of the COVID-19 coronavirus pandemic and subsequent quarantine restrictions on GDP and the share of remittances in the economy was also conducted. Hypothesis testing was used to investigate the assumptions about Kosovo's intellectual losses in the labour market, the so-called "brain drain".

The visualisation method was used to create histograms and line graphs showing the dynamics of Kosovo's GDP, unemployment rate, average wage, net migration rates by year, and the share of remittances from workers to their home countries in gross domestic product by year. Furthermore, by using Open-source intelligence (OSINT), the main expectations of the population, government officials and professionals were identified from visa liberalisation with the EU in 2024, which would allow Kosovo citizens to stay in the EU without visas for 90 days within any 180 days. The forecasting method, based on the experience of neighbouring Balkan countries, was used to model, and describe the possible impact of these changes on labour migration processes in the Republic of Kosovo and the prospects for further strengthening of the state's relations with the European Union.

Results

Since the declaration of independence on 17 February 2008, the Republic of Kosovo has been recognised by more than 100 UN member states, mostly with developed economies and responsible social policies. However, neighbouring Serbia, which does not recognise Kosovo's state sovereignty, keeps the situation on its northern and eastern borders tense, which does not contribute to either political or economic stability within the country. The EU, for its part, is doing its best to help normalise relations between the two countries, offering to mediate a dialogue, but many controversial issues and social problems remain.

Despite this, Kosovo has experienced tangible economic progress in previous years, which has not been enough to provide citizens with a sufficient number of formal jobs. The issue of employment remains one of the most sensitive in society, and it is therefore crucial for Kosovo to increase economic productivity and create more quality jobs in a short time. Successful implementation of such plans requires, first and foremost, a government programme of investment in human capital and the creation of an enabling environment

for private business. The current economic situation and development over the years of independence is well characterised by the GDP indicator. The dynamics of this indicator are shown in Figure 1.

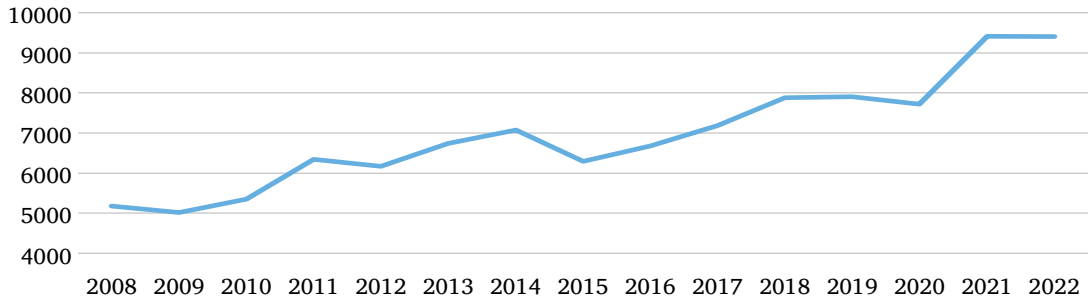

Figure 1. Kosovo's GDP by years, million USD
Source: compiled by the authors based on the data from the World Bank (2023a)

As can be seen from the chart above, fifteen years have seen different stages in the formation of Kosovo's independent economy, but the overall dynamics are positive. From 2015 to 2021, there was almost linear GDP growth, followed by a noticeable slowdown, when the figure of 9.41 billion USD remained unchanged for the whole of 2022. Despite this pause in development, the following year, 2023, showed positive dynamics, and Kosovo's GDP in the first half of 2023 grew by almost 3% year-on-year, in particular due to strong export performance (9.8% year-on-year). At the same time, the formalisation of the labour market is also growing steadily, as evidenced by a 2.3% increase in official employment between July 2022 and July 2023. In addition, the number of registered job seekers decreased by 53% between July 2022 and 2023. The dynamics of the unemployment rate in recent years are shown in Figure 2.

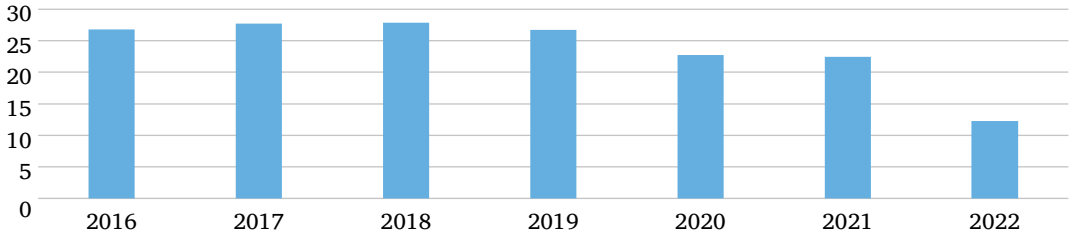

Figure 2. The unemployment rate in Kosovo among people aged 18-64, %
Source: compiled by the authors

Figure 2 shows that unemployment in Kosovo is on a negative trend, but to conclude, it is necessary to analyse this indicator in the context of net migration, which is shown in Figure 3.

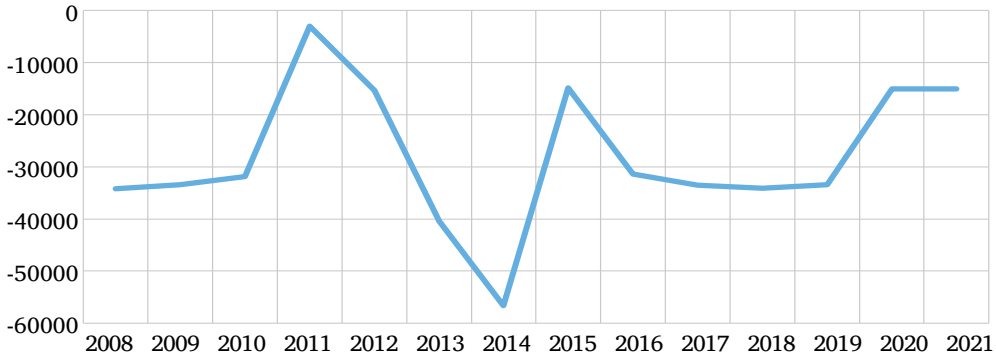

Figure 3. Net migration from Kosovo, people
Source: compiled by the authors based on the data from the World Bank (2022)

Net migration, after the large outflows of 2014 and 2016-2019, has not exceeded 15 thousand people in recent years, which is within the statistical margin of error. Accordingly, a radical outflow of labour abroad, as was the case in 2013-2014, has been prevented. Combined with the decline in the unemployment rate, these indicators demonstrate a significant improvement in the labour market in the Republic as of 2023.

The level of average wages, according to the Kosovo Statistics Agency, is also showing a steady upward trend (Fig. 4). In general, according to the World Bank (2023b), the country's medium-term economic prospects remain

positive. GDP growth is expected to accelerate to 4%, bringing the level of economic activity closer to Kosovo's true potential. In addition, according to experts, in 2023 the fiscal deficit will remain below 1% of GDP due to positive tax revenues and lower-than-budgeted capital expenditures, and public debt will remain below 20% of GDP. It is also expected that thanks to the implementation of the Energy Strategy, the contribution of investments to economic growth will become even greater in 2024-2025. However, the ongoing uncertainty associated with Russia's invasion of Ukraine, the general temporary slowdown in European economic development and the internal Kosovo political context poses certain risks for the future. According to the OECD Report, more than half of labour migrants from Kosovo are overqualified for the work they do, and this figure is the highest among the Western Balkan countries (Labour Migration in…, 2022).

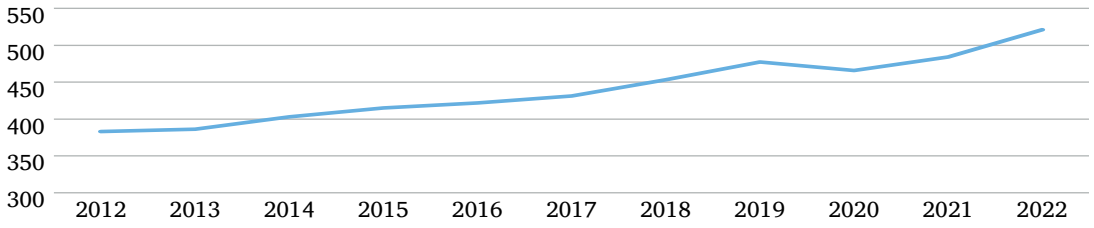

Figure 4. Average salary level in Kosovo, EUR

Source: compiled by the authors

To manage labour migration flows more responsibly and improve working conditions for Kosovo migrants, the OECD recommends strengthening the coordination of relevant institutions and joining efforts to legalise information on actual workers, promoting migrants' skills development abroad by adapting curricula and introducing a common system of recognition by destination countries, and building capacity for professional development in the Republic of Kosovo. To maximise Kosovo's benefits from existing migration processes, the OECD also recommends that the state strengthen its engagement with its diaspora, create a favourable environment for remittances, develop a national investment promotion programme, and facilitate the return of emigrants by simplifying administrative procedures (Labour Migration in…, 2022).

The ETF study, another reputable international organisation that also deals with labour shortages in the Balkan region and the qualifications of migrant workers, shows that there is still a mismatch between labour supply and demand in Kosovo (Gashi, 2021). According to their data, on average, from 2015 to 2019, the Employment Agency of the Republic managed to fill about 30% of vacancies, which can be described as an indicator of the mismatch between the qualifications of the unemployed and the requirements of employers. The results of the STEP study by the World Bank (2021) also showed that skills and experience are the main barriers to recruitment, especially for professions in demand in the market. In particular, innovative firms that have introduced new production methods in the previous three years, as well as firms that have invested in research and development, faced limitations in the qualifications of potential staff. A survey conducted in 2021 by the United Nations Development Programme (2020) among the management of 201 Kosovo companies also showed that companies have difficulty finding qualified labour. Notably, among the industries with the greatest problems with hiring specialists, the most pronounced unmet demand is in construction and manufacturing companies, as well as in service firms. Almost two out of three companies agreed to hire less qualified workers (63%), while 19% reported that additional responsibilities were assigned to existing staff.

The STEP study also showed that foreign-owned companies experience a high level of shortage of qualified personnel for both higher-skilled and medium- and low-skilled occupations. A survey among the management of 38 Kosovo companies showed that only 21% of respondents meet their staffing needs in the domestic labour market (Zogaj-Gashi *et al.*, 2019). At the same time, 60% of company owners believe that the vocational education system graduates' students without the necessary experience, and 48% of employers note that yesterday's students lack basic social and emotional skills such as punctuality, systematicity, socialisation. The shortage of skilled labour within the country is primarily due to more attractive conditions offered by foreign employers. This is indirectly evidenced by the number of remittances (as a % of GDP) coming into the country from labour migrants (Fig. 5).

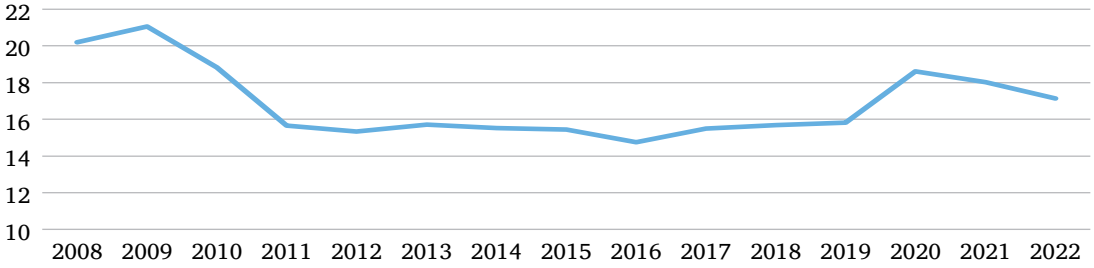

Figure 5. Remittances from individuals to Kosovo, % of GDP

Source: compiled by the author based on the data from the World Bank (2023b)

It is worth noting that after the relative stability of this indicator during 2011-2019 and the peak growth in 2020, likely caused by the COVID-19 pandemic, the last few years have seen a downward trend in the impact of personal remittances to Kosovo from abroad on GDP. Combined with optimistic data on the decline in unemployment and the decline in net migration, the negative trend in remittances may indicate positive changes in the domestic labour market.

Another marker of the country's correct development was the liberalisation of the visa regime for Kosovo citizens, which came into force on 1 January 2024. For many years, the government of Kosovo has been fulfilling the requirements and recommendations of the EU to meet the conditions for visa-free travel, and finally, numerous reforms and integration processes have been successful. However, such changes may significantly affect the current balance in the labour markets of the Balkan countries. While there used to be a fairly large pool of unskilled workers who did not even consider labour migration to the countries of the "Old Europe", as obtaining visas was a rather complicated and costly process, the flow of guest workers to the EU countries may increase after the visa abolition (Bozorgmehr & Díaz, 2022). Currently, all four countries with which Kosovo borders: Albania, Montenegro, North Macedonia, and Serbia – are not members of the European Union and the Schengen area, and it was on their territory that the migrant workers who did not obtain a visa and did not go on to work in Croatia or Germany stopped. Currently, the situation is changing radically, and all Kosovo passport holders no longer have any restrictions on further movement inland. For a more complete understanding of the regional context, it is worthwhile to look at Kosovo's relations with each of its neighbouring countries in terms of labour migration.

Kosovo maintains friendly relations with Albania, and Tirana was one of the first countries to recognise the new state's independence in 2008. Historically, the territory of Kosovo has been inhabited by Kosovo Albanians (Kosovars), and according to the 2007 census, their share exceeds 90%. There is also no language barrier, as the Kosovo-Metohija dialect of Albanian is one of the official languages of Kosovo and is spoken by almost 9% of the population. Accordingly, Albania is a very attractive option for potential labour migrants, especially given the country's geographical location – 362 km of coastline with two seas, the Adriatic and Ionian, which provide for a strong tourism potential. The development of the tourism industry creates a high demand for workers, particularly low-skilled workers, and labour migrants from Kosovo often fill these vacancies (Archer, 2023). However, a particular problem is that Albania does not use all its seaside recreational opportunities sufficiently, and thus, work for Kosovars in the country is mostly seasonal.

Another country with direct access to the Adriatic Sea and bordering Kosovo is Montenegro. The tourism industry is much more developed there than in neighbouring Albania, and the country attracts labour migrants with relatively high wages for the region. In addition, the need for human resources is observed here all year round, because in addition to the seaside towns of Budva and Kotor, where the labour market is more active in summer, Montenegro has various ski resorts in the Durmitor National Park, where the surge in labour activity of workers of various qualifications occurs in the winter months. One of the disadvantages of this area of labour migration for Kosovars is competition from Serbia, which also borders Montenegro. At the same time, Serbs have an advantage in terms of language, as Serbian is more widespread than even Montenegrin, while Albanian is only fourth, at 5% of users (Stojanov, 2023).

Kosovo's relations with Serbia itself are the most complicated in the region, and therefore labour migration in this direction has a specific character. Official Serbia does not recognise Kosovo's statehood and considers these territories to be its own. The Kosovo Serbs living in the north of the country also largely share these ambitions and sabotage the strengthening of Kosovo's statehood in the region. For example, in April 2023, during the municipal elections in Kosovo, ethnic Serbs boycotted them, and after the victory of the mayors of Albanian origin, they protested the results of the vote, even leading to violent clashes (Kamberi & Hasjani, 2023). This border specificity affects migration processes, and the northern border is crossed mainly by Kosovo Serbs to earn money. It is noteworthy that many of these anti-European rhetoric citizens hold Serbian passports in addition to Kosovo passports, which means they have long been able to travel to the Schengen area without visas. Therefore, the liberalisation of the visa regime in Kosovo since 2024 has not particularly affected their ability to travel.

North Macedonia, which once sheltered many Kosovars during the war and recognised Kosovo's statehood, has friendly relations with the Republic but is not a popular destination for labour migration. With the introduction of visa-free travel, migrant workers currently working in North Macedonia are likely to move on to more prosperous Schengen countries. Although visa liberalisation does not formally provide for the possibility of official employment in the EU and is designed mainly for tourism purposes, all labour market participants in Kosovo and neighbouring countries understand the reality that visa-free travel will be used, in particular, by Kosovars wishing to work abroad. According to the BIRN portal, Yusuf Azemi, chairman of the Kosovo Private Sector Employees' Union, is confident that when additional opportunities open up for an employee, the worker will certainly take advantage of them (Isufi, 2023). He predicts that in 2024, around 150 thousand workers in Kosovo may change their jobs.

Nevertheless, a large outflow of human capital from Kosovo is not expected. As for highly skilled professionals with sufficient education and skills, obtaining a Schengen visa was not difficult for them even before 2024, so visa-free travel did not have a major impact on the plans of white or blue-collar workers. The liberalisation of the regime will primarily benefit labour migrants who have already left Kosovo and are now working in countries bordering the Republic. With the possibility of a 90-day legal stay in the EU, they will look for better working conditions. It is likely that, as part of the rebalancing of supply and demand, their jobs will be taken by Kosovars who previously worked for the domestic market within the country, but this phenomenon will not be widespread. According to the same portal, Balkan Investigative Reporting Network, Nora Hasani, executive director of the Kosovo-German Chamber of Commerce, believes that businesses in Kosovo have already faced a labour crisis before, as many EU countries have been granting visas to Kosovars for certain professions for years and there has always been an opportunity to travel to Europe seeking work (Isufi, 2023). Accordingly, as can be seen, liberalisation did not significantly affect the domestic market and Kosovo did

not become deserted after 1 January. As for the most marginalised communities in remote provincial towns, visa-free travel has hardly affected their labour history, as they usually do not even have passports. Therefore, considering all the current indicators of Kosovo's economic development, public sentiment, and the peculiarities of the local labour market, it is not worth expecting a radical outflow of large numbers of labour migrants from the republic as a result of visa liberalisation with the EU.

Discussion

The liberalisation of the EU visa regime with Kosovo is a truly historic event, especially in the context of changing the balance of migration flows. In general, both Kosovo's relations with the EU and migration processes in the Balkan region have been repeatedly studied by leading European scholars. B. Mexhuani (2023) analysed the EU's role in shaping Kosovo's political future, focusing on the successes and consequences of the EU's involvement in Kosovo and Serbia. By comparing the EU's political approach to Kosovo and its relations with other countries in the region, including Bosnia and Herzegovina and North Macedonia, the author highlighted the unique challenges Kosovo faces on its path to European integration. In particular, the non-recognition of statehood by Serbia and five EU countries significantly hinders organisational processes (Kravtsov, 2023). Nevertheless, as noted in this study, visa liberalisation should bring Kosovo and Europe closer together.

R. Dopchie (2022), who also examined the mediating role of the European Union in the normalisation of relations between the Republic of Kosovo and Serbia according to the rational choice theory, emphasised the different perspectives of the parties to the concept of normalisation. While Kosovo and the EU have opened and declared conditions, Serbia's approach to normalisation remains a challenge due to its ambiguity and lack of transparency (Sraieb, 2022). Nevertheless, the liberalisation that this article focuses on should have a positive impact on Kosovo Serbs and demonstrate all the benefits of a normal European life without separatist slogans. As mentioned above, the path to visa-free travel and the aspirations for EU membership forced the Kosovo administration and government to act quickly and decisively. This was also noted in their study by A. Fejzullahu and B. Belegu (2022), who analysed the public administration reform in the country. Since it is the public sector that is responsible for creating the conditions and legislative framework for the labour market, the level of management in this area is very important. Accordingly, as the authors emphasise, the European future of Kosovo depends on the success of such reforms.

The significant role of the Kosovo diaspora, whose economic contribution was discussed in this paper, was also studied by T. Fang and A. Wells (2023). The authors found that modern technological advances in communication and transport strengthen diaspora ties with their homeland, and the ease of bank transfers makes it possible to support the family at a distance. Furthermore, there is evidence that diaspora members are crucial to the formation of international business and commercial networks due to their ability to help overcome language or cultural barriers (Leontyev & Ketners, 2023). The importance of remittances from the diaspora for Kosovo's economy was also noted in this study. A series of educational programmes in Kosovo that contribute to the country's human capitalisation, as mentioned in this paper, were examined by A.B. Youssef *et al.* (2021). By studying the intentions of 310 Kosovo students from two universities regarding their future entrepreneurial activities, the authors proved that personal attitudes as well as characteristics of social behaviour are the main indicators of entrepreneurial intentions. Accordingly, if the state encourages young people to engage in private commercial activities, the problem of labour shortage in the country will be solved.

An important issue of returning labour migrants to their homeland was raised by a group of North Macedonian scientists led by A. Hajdari *et al.* (2023), who studied the impact of education and knowledge transfer by repatriated entrepreneurs on business development. It was proved that the time spent abroad does not significantly affect the success of entrepreneurship in the homeland, which means that guest workers from Kosovo, who are currently working abroad, will be able to return and invest their capital in their country's economy without significant losses. M. Zoppi (2022), studying socio-demographic challenges and labour migration in the Balkan countries, drew attention to the fact that public investment in education and training in the absence of a competitive national labour market can be wasted if, after graduation, a potential employee leaves to increase human capital in another country rather than staying at home. To avoid this, the state must create decent conditions not only for studying but also for further employment (Tomashevski & Yaroshenko, 2020). The need to create a competitive salary market was also discussed in this study.

Analysing the experiences of those who have returned to Kosovo, K. Kusari (2023) concludes that repatriation remains the best political solution that benefits all parties. According to the author, in 2015, Kosovars were the fourth largest group of asylum seekers in the EU, but 96% of them were rejected. Since Kosovo's state-building and migration policies are heavily influenced by the UN and the EU, it is necessary to focus financial assistance from international institutions on improving the state of the economy within the country (Palmer & Drbohlav, 2022). According to the economic indicators of this study, a positive trend in this direction has already begun. Foreign direct investment in Kosovo, which is responsible for the economic growth mentioned in this study, was studied by K. Conahan *et al.* (2021) and proved that the current demographic situation and sound investment legislation create positive conditions for attracting foreign finance to the country. In addition to the large number of industries available to investors as part of the privatisation programme in Kosovo, the state has also created several economic zones that further facilitate the flow of money into the economy of the Republic of Kosovo. If this approach continues, the country and society will not feel any negative economic consequences of visa liberalisation.

A study on labour migration in the Balkan countries was also conducted by G. Miladinov (2022). The results of the study show that the region, except Slovenia, has inefficient migration statistics and serious access restrictions, and the only source of migration data is the census and administrative data. As a result, the author describes such statistics as questionable, but at the time of writing, there were no problems with the reliability of information from either the World Bank or the Kosovo Statistics Agency. An important nuance of the European integration of Kosovo and other Balkan countries was discussed by I. Kalemaj and E. Kalemaj (2022). The unjustified aggressive war against Ukraine, the impact

of which on economic indicators was mentioned above, literally forced the European Union to strengthen integration processes and become a more monolithic structure before the possible further spread of aggression on the continent. Accordingly, this contributed, among other things, to the implementation of plans to introduce visa-free travel to Kosovo.

L. Naumovski (2021), studying the attractiveness of intellectual migration in the Western Balkans, emphasised that the liberalisation of capital, labour and intellectual property is driven by economic globalisation and affects all countries of the world, but primarily developing economies. Analysing the reasons for labour migration and changes in legislation, the author concludes that the abolition of visas in the Balkan countries has never led to uncontrolled consequences and a massive outflow of human resources, and therefore, the liberalisation of entry to the EU for Kosovars will not significantly affect migration flows. The factors behind the unwavering political and popular support for Kosovo's EU integration have been studied by G. Krasniqi (2023), determining that the self-identification of Kosovo's citizens is closely linked to the ideas of Euro-Atlantic and Western values. According to the study, almost a third of Kosovo's citizens already live or have lived in other European countries, and therefore, liberalisation of entry to the EU will not lead to significant changes in the labour market.

Overall, Kosovo's civilizational choice for its European future should be welcomed and the country should be encouraged to integrate further. Due to the synergistic effect, such increased communication will have a positive impact on the development of Europe and Kosovo, and visa liberalisation is only the beginning of the integration path.

Conclusions

Although the Republic of Kosovo is the youngest country in Europe, it has managed to survive severe crises, public disbelief in the country's economic success, and separatist challenges in the decade and a half since its independence. Nevertheless, owing to the support of European countries, Kosovo has been able to meet all the challenges, and the country's economy is showing sustainable development.

Visa liberalisation, which took place in early 2024, is expected to affect migration flows, but not radically. Since the new rules do not allow official employment and the period of legal stay in the EU is limited to only 90 days, the new opportunity will be taken up mainly by those Kosovars already working in the neighbouring countries of the Republic of Kosovo. Likely, some of the jobs in Montenegro, Serbia, Albania, and North Macedonia that will be vacated in this way will be taken by Kosovo citizens who had previously worked in the domestic market, but this human capital drain will be insignificant. This forecast is further supported by the fact that, as shown in the article, Kosovo's economy is growing by many indicators, which means that the number of vacancies with decent pay in various sectors of the country will only increase. All the Balkan countries have gone through similar procedures with the introduction of visa-free travel, and it has never led to any negative legal or economic consequences. Moreover, the elimination of the visa barrier will help Kosovars to better understand the democratic values of Old Europe, and EU citizens, on the contrary, to understand the national and cultural codes of Kosovo's citizens and visit such iconic places as the Emin Gjiku ethnographic museum in Pristina and the monasteries of Metohija without visas.

The scientific novelty of the study lies in modelling the possible consequences of the introduction of visa-free travel for the labour market of Kosovo and neighbouring countries, as well as in formulating recommendations on measures to return migrant workers home to strengthen the economic position of the Republic – since liberalisation took place only on 1 January this year, this paper is one of the first to assess the beginning of the process. The intensification of mutual tourist exchange, which will significantly intensify in 2024, should push the authorities of the Republic of Kosovo to create special tourist and ethnic clusters, the development of which could be the subject of further research. Moreover, the discovery of the unique Kosovo culture for Europe should become part of the grand national idea and, accordingly, further scientific consideration.

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None.

Conflict of interest

None.

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Лібералізація візового режиму та трудова міграція: правові та економічні наслідки для Косово

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Анотація. За роки незалежності Косово сформувало певні відносини з сусідніми державами та країнами Західної Європи, але значне спрощення процедури перетину кордону з країнами Шенгенської зони, яке набуло чинності з 1 січня 2024 року, вимагає перегляду існуючих балансів та формування актуальних оцінок можливих наслідків. Метою дослідження було прогнозування подальшого розвитку відносин між Косово та ЄС у контексті міграційних процесів. Для дослідження ключових економічних показників попередніх років щодо перспектив перерозподілу трудових ресурсів використовувалися методи статистичного та ретроспективного аналізу. Дослідження доводить позитивний розвиток економіки Косово шляхом аналізу таких важливих економічних показників за попередні роки, як валовий внутрішній продукт, рівень безробіття, чиста міграція з Косово, середня заробітна плата в країні, обсяг грошових переказів, отриманих економікою від трудових мігрантів, які працюють за кордоном. Окреме дослідження було присвячене відносинам Косово з сусідніми країнами – Албанією, Сербією, Чорногорією та Північною Македонією. У контексті процесів трудової міграції було оцінено досвід роботи косоварів у цих країнах, а також спрогнозовано зміни балансів на ринках праці, спричинені візовою лібералізацією. На основі отриманих даних і зроблених висновків зроблено прогноз щодо економічних і політичних наслідків безвізового режиму для косоварів: перспективою роботи в Шенгенській зоні скористаються ті громадяни Республіки Косово, які вже працюють за кордоном, і значного відтоку наявних в країні трудових ресурсів не відбудеться. Практичне значення дослідження полягає в моделюванні подальшого розвитку ринку праці в Косово, яке буде корисним для менеджерів державних підприємств і великих приватних роботодавців при формуванні своїх HR-стратегій

Ключові слова: європейська інтеграція; ринок праці; дефіцит робочої сили; репатріація; динамічний розвиток

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Legal regulation of social protection of persons enforcing decisions in Ukraine

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Abstract. The professional activities of qualified personnel are essential to ensure the full enforcement of judgments at the proper level. Therefore, the issue of studying and improving the social security of bailiffs always remains relevant. The study aims to determine the current legal regulation of social protection of persons ensuring the enforcement of judgments in Ukraine. The basis of scientific cognition was the formal legal method, with the help of which several legislative acts regulating the social security of public and private bailiffs were studied. The study identified the main legal provisions governing the social protection of persons engaged in the enforcement of decisions, identified the main shortcomings of the social security mechanism for public and private bailiffs, identified gaps and conflicts contained in the legislation on social security of civil servants, and analysed the legal provisions governing the remuneration of public and private bailiffs, their pension and social security in case of disability. After reviewing several legislative acts, the author conducted a comparative analysis of the social protection of public and private bailiffs and determined their legal status and peculiarities of legal regulation of social security of public bailiffs in the system of social protection of civil servants. The several ways to improve the legislation and specific practical steps to ensure that social guarantees for public and private bailiffs are at the appropriate level are indefined. The practical significance of the study is that through a detailed

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study of the current legislation in the field of social protection of persons ensuring the enforcement of decisions, it is possible to identify positive and negative aspects in the mechanism of social protection and further significantly improve the social guarantees of public and private bailiffs at the legislative level

Keywords: social guarantees; court decision; pension insurance; enforcement proceedings; remuneration of the executor

Introduction

The issue of social security of the population is one of the most important functions of the state, so the problems of social protection are discussed by many scholars from different countries. Particular attention should be paid to the social protection of civil servants since it is the proper financial security and social guarantees that can motivate public sector employees to effectively exercise their powers and implement the functions of the state. One of the most important categories of civil servants is public and private bailiffs (not civil servants), who enforce decisions following the powers vested in them by law. When studying the issue of social security of civil servants, it should be noted that the issue of social security of private and public bailiffs often remains outside the scope of scientific research and out of the legislator's attention. Therefore, the study of legal norms that enshrine social guarantees for persons who ensure the enforcement of decisions is extremely important and relevant today. After all, it is the improvement of legal regulation in the field of social protection of bailiffs that will indirectly contribute to more efficient enforcement proceedings and increase the prestige of the profession and trust in the actions of public officials.

The problem of the study is that the legislator when defining the status of public and private bailiffs, did not pay due attention to the social protection of this category of persons. In the context of martial law, when the process of enforcement is even more complicated and time-consuming, inadequate legal regulation of social protection of this category of civil servants leads to a significant decrease in the level of professionalism and personal motivation of persons ensuring the enforcement of decisions (Adamenko, 2022).

Some Ukrainian scholars have studied this issue. As such, K. Hryshchenko (2019) devoted her dissertation to the topic of legal regulation of social protection of public and private enforcement officers. In their research, the authors established the peculiarities of the legal status of bailiffs in the social security system, the author identified the areas and scope of legal regulation of social protection of public and private bailiffs and outlined some areas for improving legislation in the field of social security of bailiffs. P. Makushev (2020) studied the issue of the formation of the State Enforcement Service in Ukraine at the legislative level. The author analyses the problems of improving the administrative and legal regulation of this service and examines the legal guarantees of the activities of state bailiffs and the procedure for bringing them to justice. In addition, the author examines the foreign experience of legal regulation of the activities of state and private bailiffs.

T. Minka (2022) also examined the shortcomings and ways to improve the administrative and legal regulation of the enforcement of court decisions. The author identified the actual reasons for the non-enforcement of court decisions related to the organisation of enforcement of decisions and the shortcomings of the allocation of budgetary funds for the enforcement of decisions. In his scientific article, S. Karpiuk (2020) analysed the mechanism of state and legal support of the executive service bodies. The author examines the positive and negative aspects of the transition of enforcement proceedings to a mixed system, and studies in detail the legal status of public and private enforcement officers.

H. Parfonov (2022) devoted his research to the problem of enforcement of court decisions under martial law. The author analyses the legislative changes that have taken place in the procedure for the enforcement of judgments in connection with the introduction of martial law. In general, as a result of the study, the author concludes that the procedure for enforcement of judgments during martial law is unchanged, except that persons in difficult circumstances are provided with certain additional opportunities. In their works, scholars have examined in detail the problematic aspects of the system of executive bodies and the problems of administrative and legal regulation, but the issue of social protection and legal status as subjects of social security law of these persons has not been given due attention. There has been no legal analysis of the social guarantees provided by the State to private or public bailiffs.

The study aimed to review the legal provisions that enshrine basic social guarantees and provide social protection for persons engaged in the enforcement of decisions.

Materials and methods

Such scientometric databases as Google Scholar and Scopus were used to search for information on this study. For a complete and comprehensive study of the topic of the article, several scientific articles by both Ukrainian and foreign authors published in international journals and collections related to the issue of social protection of civil servants were used. To determine the peculiarities of legal regulation of social security of public and private enforcers, several legislative acts in this area were studied, such as Law of Ukraine "On Enforcement Proceedings" (2016), Law of Ukraine "On Bodies and Persons Ensuring Enforcement of Court Decisions and Decisions of Other Bodies" (2016), Law of Ukraine "On Civil Service" (2015), Law of Ukraine "On Civil Service" (1993), Law of Ukraine "On Obligatory State Social Insurance for Unemployment" (2000), Law of Ukraine "On Compulsory State Social Insurance" (1999), Law of Ukraine "On Compulsory State Pension Insurance" (2003), Law of Ukraine "On Pension Provision" (1991) and certain bylaws.

To carry out this research some general theoretical methods of scientific cognition were used. Using the formal logical method, a consistent study of legal provisions in the field of social protection of public and private bailiffs was carried out and several legislative acts regulating the issues of social security of persons engaged in the enforcement of decisions were examined. Using the method of analysis, the main features of legal regulation of social guarantees for bailiffs and identifies the positive and negative aspects of such regulation were identified. In addition, some ways to improve the legal regulation of social protection of public and private bailiffs to promote the professional development and motivation of employees of the State Enforcement

Service or private bailiffs were outlined. Using synthesis, various legal provisions regulating social security were examined and a single mechanism for the social protection of persons engaged in the enforcement of decisions was identifies. Employing induction, certain legislative provisions and determined the general position of public and private bailiffs in the system of social protection of persons were studied; having studied specific problems of the activities of executive bodies, general issues inherent in the legal regulation of social protection of this category of persons were formulated.

Using the deduction method, the overall features of legal regulation of social security of civil servants were studied and the regularities of legal regulation which are specific to social guarantees of persons who enforce court decisions were identified. Comparative analysis was used to examine the legal regulation of social security of two categories of persons who enforce court decisions, namely, public, and private bailiffs, and to identify common and distinctive aspects in the legal status and specific features of the mechanism for providing social guarantees for both public and private bailiffs. Using the method of specification, certain areas of social security for enforcement officers, in particular, pensions and remuneration, were examined in detail, and certain legal provisions governing the procedure for providing social security in these areas were studied. Using the method of generalisation, certain peculiarities and shortcomings of legal regulation of the social sphere for executive bodies were identified and the ways to improve and increase social guarantees for this category of persons were concluded.

Results

Social protection, as a set of measures aimed at providing the population with material security in case of social risks, is one of the most important functions and tasks of a democratic state. Today, especially in the context of martial law, the issue of social protection is very acute, affecting absolutely all categories of citizens. Of particular importance is the social security of civil servants, since only proper financial incentives and social guarantees can be sufficient motivation for employees to perform the functions of the state professionally and effectively. Enforcement officers in Ukraine are no exception. According to the Law of Ukraine "On Bodies and Persons Ensuring Enforcement of Court Decisions and Decisions of Other Bodies" (2016), such persons include public and private bailiffs (Manzhak, 2023).

The enforcement of court decisions is one of the most important stages of the judicial process, without which the court decision itself will only be declarative. In addition, the proper implementation of enforcement actions is a guarantee that the state will ensure the legitimate rights and interests of citizens. On its way to European integration and in compliance with the requirements of the European Union (EU) to reform the judicial process, Ukraine has been operating a mixed system of enforcement of court decisions and decisions of other bodies since the adoption of the Law of Ukraine "On Bodies and Persons Ensuring Enforcement of Court Decisions and Decisions of Other Bodies" (2016). Given the importance of this stage for the administration of justice and the restoration of violated rights, it is obvious that high motivation, professionalism, and stress resistance are required to carry out enforcement actions (Azevedo, 2023). Appropriate financial incentives are one of the factors in retaining qualified personnel in this area. However, the issue of social protection of public or private bailiffs has long been outside the scope of attention of both the legislator and scientific research. Today, in the context of martial law, the issue of social protection is even more acute.

The social protection of employees of the State Enforcement Service and private bailiffs should be understood as a set of legal, economic, and organisational measures taken by the state to ensure an adequate level of existence and eliminate certain social risks (Hryshchenko, 2019). One of the most important components of the social security system for enforcement officers is remuneration. In this case, wages perform a social function, as they ensure social equality and should meet the basic living needs of these persons. In addition, social guarantees for executors include social payments in case of unemployment, disability, and other insured events, if they occur (Bezusiy, 2019). Table 1 summarises the legal provisions governing remuneration for public and private bailiffs.

Table 1. Legal regulation of remuneration of public and private enforcement officers

Legal regulation of remuneration	State bailiffs	Private contractors
Law of Ukraine "On Civil Service" (1993; 2015)	The components of the remuneration of a state bailiff are an official salary, an allowance for the rank of civil servant and a bonus.	No provisions are in place as private enforcement officers are not classified as civil servants
Law of Ukraine "On Bodies and Persons Ensuring Enforcement of Court Decisions and Decisions of Other Bodies" (2016)	The salary of an employee of a state executive service body consists of an official salary, a bonus, a rank supplement and a longevity supplement, remuneration, and other allowances following the law	Basic and additional remuneration

Source: compiled by the authors

Thus, the legal regulation of social security of persons engaged in the enforcement of decisions consists of several levels and is quite complex. The first level consists of legislative acts that set out the basic principles of the State Enforcement Service and private enforcement officers. The main legislative document that defines the legal status and principles of activity of public and private bailiffs is the Law of Ukraine "On Bodies and Persons Ensuring Enforcement of Court Decisions and Decisions of Other Bodies" (2016). The Law of Ukraine "On Enforcement Proceedings" (2016) regulates the principles and procedure of enforcement proceedings. Despite the unified regulatory framework, the legislator separates the powers of public and private enforcement officers, and their status as social security entities is also fundamentally different. The most important difference in the legal status of persons engaged in the enforcement of

decisions is that state bailiffs and other employees of the state enforcement service have the status of civil servants. Thus, the obligation to provide appropriate social benefits and social guarantees in the event of an insured event for state bailiffs is imposed on the employer and the Social Insurance Fund. Since a private bailiff is a subject of independent professional activity, as well as a lawyer or a private notary, the obligation to provide social security in cases provided for by law is imposed on the bailiff (Shapovalova, 2021).

Since the source of funding for public and private bailiffs is different, the mechanism for implementing social security for this category of persons is also different. As of today, Article 13 of the Law of Ukraine "On Bodies and Persons Ensuring Enforcement of Court Decisions and Decisions of Other Bodies" (2016) is fully consistent with Article 50 of the Law of Ukraine "On Civil Service" (2015) and there are no legal conflicts in the remuneration of bailiffs. The basic remuneration of a private enforcement officer consists of a fixed amount, in case of enforcement of a non-property decision, or is determined as a percentage of the amount recovered. The amount of the basic remuneration is determined by the Cabinet of Ministers of Ukraine. To ensure that the private enforcement officer makes a profit, the Law of Ukraine "On Bodies and Persons Ensuring Enforcement of Court Decisions and Decisions of Other Bodies" (2016) contains a provision stipulating that the basic remuneration in percentage terms is collected from the debtor together with the amount of the writ of execution, and the fixed basic remuneration is collected after the decision is fully enforced. A private enforcement officer may enter into an agreement with the creditor to receive additional remuneration.

In addition to the laws that set out the basic provisions on remuneration of executive bodies, several bylaws specifically set out the amount of remuneration of public and private enforcement officers. The Resolution of the Cabinet of Ministers of Ukraine No. 126 "On Approval of the Procedure for Payment and Amount of Remuneration to the State Enforcement Officer" (2015) remains in force. This resolution states that if a state enforcement officer has fully enforced a property writ of execution, an official receives remuneration of 5% of the amount recovered, but not more than 250 tax-free minimum incomes. In the case of enforcement of a non-property writ of execution, the bailiff receives twenty tax-free minimum incomes if the debtor is an individual and forty tax-free minimum incomes if the debtor is a legal entity.

In addition, there is also Resolution of the Cabinet of Ministers of Ukraine No. 643 "On Approval of the Procedure for Payment of Remuneration to State Enforcement Officers and Their Amounts and the Amount of the Basic Remuneration of a Private Enforcement Officer" (2016), which sets out the rebound rates for calculating remuneration to a state employee for partial or full actual execution of an enforcement document. It also stipulates that the basic remuneration of a private enforcement officer is set at 10% of the amount collected in the case of enforcement of a writ of execution of a property nature. If the enforcement is of a non-property nature, the basic remuneration of the private enforcement officer will be four times the minimum subsistence level of income if the debtor is an individual, and eight times the minimum subsistence level if the debtor is a legal entity. Thus, the two documents are equal in legal force, but they set different amounts of remuneration and use different equivalent values to calculate the remuneration of employees (Amelicheva & Lavreniuk, 2023). Given this, a significant number of scholars who have studied the problems of financial support for public and private enforcement officers emphasise the need to repeal the Resolution of the Cabinet of Ministers of Ukraine No. 126 (2015) to avoid the possibility of erroneous calculation of remuneration for enforcement officers (Bondarenko, 2021).

Since state bailiffs are classified as civil servants, some peculiarities of their pension provisions are enshrined in legislation. The Law of Ukraine "On Civil Service" (1993), which has lost its force, except for Article 37, defines the right of a person to a civil servant pension. According to Article 37, men who have reached the age of 62 and women who have reached the retirement age, provided they have the insurance period required for the minimum retirement pension, including at least 10 years of civil service, and who have worked as civil servants at the time of reaching the specified age, as well as persons who have at least 20 years of service in positions classified as civil servants, regardless of the place of work at the time of reaching the specified age, are entitled to receive a civil servant pension. Civil servants are paid a pension equal to 60% of their salary, from which a single contribution to the obligatory state social insurance is paid (Yaroshenko *et al.*, 2021).

Social protection issues, which include both state and private contractors, are also regulated by several laws in the field of social security. In particular, the Law of Ukraine "On Obligatory State Social Insurance for Unemployment" (2000); the Law of Ukraine "On Compulsory State Social Insurance" (1999); the Law of Ukraine "On Compulsory State Pension Insurance" (2003); the Law of Ukraine "On Pension Provision" (1991). However, the laws do not enshrine any special social guarantees for public or private bailiffs. The Law of Ukraine "On Bodies and Persons Ensuring Enforcement of Court Decisions and Decisions of Other Bodies" (2016) also does not address the issue of social protection, as there are no provisions on the regulation of social guarantees for a certain category of persons. Given that other participants in the judicial process, such as judges, have extremely broad social guarantees and their social protection is regulated at the legislative level, the absence of a specific legal definition of social security for public and private bailiffs is a significant drawback for the current legislation.

Currently, the legal regulation of social protection of persons engaged in the enforcement of decisions is complex and multi-level. There are inaccuracies and legal conflicts in many social issues. Since during martial law, very little attention is paid to the legal status and state guarantees of executive bodies, the legal norms that establish the mechanism of financial support for public or private enforcement officers are outdated and insufficient to ensure the proper functioning of the enforcement institution (Khavarivska, 2023). Low official salaries and the absence of special provisions in the social security legislation do not contribute to raising the level of professionalism among bailiffs, do not motivate employees to properly perform their duties and do not create additional guarantees for employees of the state enforcement service. The combination of such negative aspects leads to a global problem of improper enforcement of court decisions, which completely discredits the entire judicial system (Fitri *et al.*, 2023). Therefore, to improve the legal regulation of social security for state or private bailiffs, it is necessary, first of all, to repeal bylaws that have lost their

relevance, to increase the salaries of state bailiffs to ensure their remuneration at the appropriate level, and it would be advisable to add a separate section to the relevant Law "On Bodies and Persons Enforcing Court Judgments and Decisions of Other Bodies" that would enshrine specific social guarantees for state and private bailiffs.

Discussion

For a complete and objective study of the problem of legal regulation of social protection of public and private bailiffs, several scientific works in this area were studied. After reviewing the works of foreign authors, it is possible to state that scholars from different countries have studied social guarantees and the system of social protection of civil servants in general, including persons engaged in the enforcement of decisions. For example, Turkish scholar K.G. Öktem (2022) conducted a comprehensive study of social security for the elderly, examines the social security system, the criteria for including or excluding certain guarantees in the existing social security system, and analyses the chronological order of development of the social security system for the elderly. M. Draniceru (2022) examined the international legal standards for the protection of civil servants in the performance of state functions. The author conducts a comparative analysis of the legislative norms regulating guarantees for civil servants of both international institutions and the norms of some countries, which are illustrative examples for others.

Yu. Kharazishvili *et al.* (2020) chose the topic of social security of society in developing countries for their research. Their study defines the general level of social development and the criteria that affect social sustainability and develops strategies for sustainable development of the social sphere that are universal for any country or category of people. F. Gerard *et al.* (2020) analysed new risks and challenges for the social protection system in the wake of the COVID-19 pandemic. The authors reviewed the policies of developed countries on social protection in difficult and crisis circumstances, which could become a social protection strategy in low- and middle-income countries. The researchers propose specific strategies for expanding the social protection system to improve the financial situation of citizens of developing countries.

S.E. Kristiawan and L. Karjoko (2023) considered the problem of legal certainty in the issue of social guarantees for civil servants who have already reached retirement age but are subject to corruption-related legal proceedings. The study examines the legal framework that would help to define one approach to the procedure for the dismissal of such persons from the civil service and identifies the need to consolidate social guarantees for civil servants in such cases to avoid the use of different approaches to social protection for this category of persons. F. Beaucreux (2023) examined the problem of social protection of civil servants in the medical sphere and studied the peculiarities of health insurance. The researcher studied in detail the peculiarities of mutual insurance companies for civil servants and their place in the social protection system. The paper reveals the paradoxes of the trajectory of tax social protection for civil servants. A. Ananta *et al.* (2021) studied the advantages and disadvantages of different pension systems for civil servants in Indonesia. The authors carried out a comparative analysis of the pay-as-you-go and funded pension insurance systems and identified their positive and negative aspects for further reforming the pension system and ensuring an adequate standard of living for civil servants.

T. Christensen *et al.* (2019) in their study considered the problem of finding a balance between individual rights and the social security of society as a whole. They analysed a social survey among civil servants on the priority of individual or collective rights of citizens. The textbook by K.M. Anderson (2015) examines various social protection systems in the EU countries. The book examines in detail the legal and regulatory documents that enshrine social guarantees for citizens of different states, analyses different approaches to social security for different categories of citizens, and explores different areas of social protection from health insurance to pensions. In addition, the strategies for the development of the social sphere in the EU and ways to improve legislation at the supranational level are considered. E. Schuring and M. Loewe (2021) devoted their research to the study of various social security systems. The book examines the basic concepts related to social protection, the main instruments of social security and the effect of applying these instruments in practice. It also discusses strategies for improving social protection systems and their positive impact on the material well-being of citizens.

Examining the scientific publications of foreign authors, it is possible to note that all studies of foreign scholars in the field of social protection are quite broad and relate either to the social security of the population as a whole or to the problems of social protection of civil servants (Aryn *et al.*, 2021). The issue of social guarantees for persons engaged in the enforcement of decisions is included in the social protection of civil servants and is not considered separately as an object of scientific research (Dragos & Przybytniowski, 2022). The commonality between this study and the works of foreign researchers is that the legal framework regulating the grounds and procedure for the implementation of social protection of certain categories of persons, such as civil servants, was studied. Given that the legal status of public and private enforcers has some peculiarities under Ukrainian law compared to other civil servants, this study was devoted to the legal regulation of social protection of executive bodies and individuals. In most cases, research is devoted to the legal regulation of social guarantees for civil servants, but there is no research on social guarantees for persons performing state functions on a private basis. The absence of research in this area leads to ambiguities and legal gaps, which do not contribute to the development of the institute of private enforcement officers.

Agreeing with the opinion of the majority of authors dealing with the issue of social protection of civil servants, it should be noted that one of the priority areas of the state's activity is to ensure an adequate standard of living for persons who ensure the performance of state functions. The development and well-being of the entire society depend on the level of protection and motivation of public servants (Bocheliuk *et al.*, 2022). The same statement applies to both public and private enforcement officers, as the process of enforcement is perhaps the most important stage of the judicial process and the enforcement of citizens' rights.

The limitations of this study are that the legal norms related to the social security of state and private enforcement officers were considered. The main laws and regulations governing remuneration and pension provisions for civil servants were considered. However, the procedure for

providing social benefits and other social guarantees in case of disability or unemployment was not considered in detail, since such social guarantees are provided to public and private bailiffs on a general basis, depending on their legal status. The study did not cover the procedure for providing social benefits and other social guarantees in case of disability or unemployment. In analysing the current legislation, the study did not assess the current legal regulation but only identified some ways to improve the legal regulation in the field of social protection of persons engaged in the enforcement of court decisions.

Conclusions

The study determined that Ukraine currently has a rather complicated and multi-level system of legal regulation of social protection of persons engaged in the enforcement of decisions. The main and specialised law in this area is the Law of Ukraine "On Bodies and Persons Enforcing Court Decisions and Decisions of Other Bodies", which establishes the legal status of public and private enforcement officers and the principles of their activities. As a result of the reforms, Ukraine has a mixed system of enforcement, and the legal regulation of the legal status and social security of public and private bailiffs is somewhat different. Remuneration of labour as the main social guarantee and pension provision for state enforcement officers is established by the Law of Ukraine "On Civil Service", but pension provision for private enforcement officers is carried out on a general basis and has no other legal peculiarities. Having analysed the legislative norms in the field of social security of these persons, it should be noted that the legal status of persons carrying out enforcement of decisions as subjects of the right to social security does not have a separate legislative regulation. Despite the importance of the enforcement institution and the complexity of enforcement actions, both public and private bailiffs currently lack adequate social protection, which may explain the low quantitative and qualitative indicators of court decision enforcement. Even after the reform of the system of executive service bodies, social guarantees remained unaddressed by the legislator and were not enshrined in the relevant law.

The prospect of further research is to study international experience in the field of legal regulation of social protection of public and private enforcement officers to determine a strategy for improving the system of social guarantees for these persons. The study achieved its objectives, in particular, by examining the main legal acts regulating the social security of persons engaged in the enforcement of decisions and analysing the positive and negative aspects of these norms.

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Правове регулювання соціального захисту осіб, які здійснюють примусове виконання рішень в Україні

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Анотація. Для забезпечення повноцінного примусового виконання рішень на належному рівні важливе значення має професійна робота кваліфікованих кадрів. Тому питання вивчення та удосконалення соціального забезпечення виконавців завжди залишається актуальним. Мета дослідження – визначити чинне правове регулювання соціального захисту осіб, що забезпечують примусове виконання рішень в Україні. В основу наукового пізнання покладено формально-правовий метод, за допомогою якого вивчено низку законодавчих актів, що регулюють питання соціального забезпечення державних та приватних виконавців. У результаті дослідження визначено основні правові норми, що регулюють соціальний захист осіб, які здійснюють примусове виконання рішень, було визначено основні недоліки механізму соціального забезпечення для державних та приватних виконавців, виявлено прогалини та колізії, які містяться в законодавстві про соціальне забезпечення державних службовців, проаналізовано правові норми, які регламентують оплату праці державних та приватних виконавців, їхнє пенсійне та соціальне забезпечення в разі втрати працездатності. На матеріалі законодавчих актів проведено порівняльний аналіз соціального захисту державних та приватних виконавців, визначено їхній правовий статус та особливості правового регулювання соціального забезпечення державних виконавців у системі соціального захисту державних службовців. Установлено кілька шляхів удосконалення законодавства та визначено конкретні практичні кроки задля забезпечення соціальних гарантій для державних та приватних виконавців на належному рівні. Практичне значення дослідження полягає в тому, що за допомогою детального вивчення чинного законодавства у сфері соціального захисту осіб, що забезпечують примусове виконання рішень, можна визначити позитивні та негативні аспекти в механізмі здійснення соціального захисту та в подальшому суттєво покращити соціальні гарантії державних та приватних виконавців на законодавчому рівні

Ключові слова: соціальні гарантії; судове рішення; пенсійне страхування; виконавче провадження; винагорода виконавця

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E-government in Ukraine and the world: A comparative legal analysis

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Abstract. The relevance of the study is conditioned by rapid technological development and digitalisation, which transforms the usual sphere of public services. Therefore, the purpose of the study was a comparative legal analysis of e-governance and the processes of its development both in Ukraine and in other countries of the world. The study was also aimed at identifying advantages and disadvantages among foreign experience in implementing e-government. The following methods were used: historical, comparative legal, formal logical, the method of legal hermeneutics, and induction. The main results included clarification of the terminology related to the subject matter of the research work, in particular, the concept of e-government; study of the historical aspect of the development of this phenomenon and its defining characteristics and features. The main laws and regulations in this area on the territory of Ukraine – the concept of e-governance development, laws of other states – were also analysed. The research also included statistical data illustrating the development of e-governance in Ukraine during 2010-2022, and the development of this institute in other countries. Thus, the international experience is considered on the example of such countries as Denmark, Finland, and South Korea with a study of the advantages and features of their legislative and practical solutions, reforms in this area; based on the experience of the studied countries, a number of recommendations for Ukraine on the development and improvement of e-governance, digitalisation processes, and the sphere of providing state electronic services are formed. The results of the study can be used to improve the regulatory framework and effectively reform the e-government sector and the process of digitalisation of the public services sector

Keywords: digitalisation; public services; information; management

Introduction

The relevance of the study of this phenomenon is determined by several aspects, in particular, the widespread introduction of digital technologies in all spheres of life, the need to overcome the digital divide and search for methods that will help make this process faster, the need to increase transparency and accountability as the foundations of a democratic system, and globalisation processes that make it necessary to find opportunities for the exchange of experience between countries to implement an effective e-government system.

As noted by I. Kotelnikova (2022), a digital revolution is characterised by the introduction of information and communication technologies (ICTs) that affect all spheres of public life, including political life, where the author sees the use of ICTs in the development of e-government. The researcher points out that in Ukraine, the process of distributing e-government is no longer a technological innovation. It is being transformed into an affordable tool for obtaining public services, which contributes to increasing the transparency of the activities of public authorities. The issue of transformation of the Ukrainian state in the digital vector was investigated by I.V. Kulaga *et al.* (2020). The researchers point out that the use of ICT in all areas of activity of state and local authorities contributes to improving the efficiency and effectiveness of their work, transparency and accountability, and improving the quality of service to citizens and businesses. Digitalisation of Ukrainian society is an important factor for integration into the European Union (EU) (Limaj *et al.*, 2023). However, the researchers note that they observe a low rate of development and introduction of digital technologies, which may be due to bureaucratic and corruption factors. The correlation between e-governance and the development of democracy is highlighted by M. Sopilko and R.E. Sai (2020). The researchers argue that e-governance is aimed at increasing the transparency of the political process and monitoring decisions of state or local government bodies. Thus, "e-democracy" is seen as a tool for ensuring the fundamental rights and freedoms of citizens through the use of electronic technologies (Adanbekova *et al.*, 2022).

Regarding the international experience of implementing e-government, it is worth paying attention to the paper by

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V.S. Politanskyi (2020), which pointed out that the American and European approaches to the development of e-governance differ, in particular, the first is based on greater financing and development of economic resources, and the second – on human capital, which, on the contrary, consists in intellectual resources. O.K. Kanenberg-Sandul and V.V. Formaniuk (2021) spoke in more detail about the European experience. Thus, in the EU, the development of e-government is aimed at ensuring social unity and an adequate standard of living, along with equal access to technological opportunities (Slynko & Nefedov, 2023). The researchers also point out that one of the examples of successful implementation of e-government is Estonia, where ID cards have existed since 2002, along with the possibility of electronic elections.

South Korea's experience in implementing e-government was investigated by S. Petko (2022). Thus, the researcher notes that it was the emergence and development of the Internet that became a catalyst for the creation of an effective system for providing electronic services in the country. The policy of the South Korean government also plays an important role, which consisted in expanding funding for the sphere, developing transparency in decision-making, helping to minimise corruption in the relevant process, attracting the public and investing in human capital. In addition, the digital transformation of the government and the institution of e-governance in general consists not only in optimising processes, but also in rethinking the approach to management itself (Mazur & Flogaitis, 2023). As for approaches to the definition of e-government, V.P. Solovyh and E.M. Solovyh (2023) highlight technocratic and theoretical. Thus, the first approach considers e-governance as one of the levels of implementation of information and telecommunications technologies in public administration; the second considers e-governance as a corresponding ideology, concept, or theory.

The analysis of the above-mentioned papers allows for the conclusion that the topic of e-government is the subject of constant scientific discussions, however, most often attention is paid to the general analysis of e-government and the experience of its implementation in different countries of the world, but less attention is paid to issues related to the regulatory regulation of the implementation and functioning of e-government, positive and negative aspects of the implementation of e-government in different countries of the world, determining the most effective and successful model. Thus, considering the relevant shortcomings of these papers, the purpose of this study was to conduct a comparative analysis of the process of implementing electronic services and e-government in different countries of the world.

Materials and methods

The study was conducted using various methods of scientific cognition. In particular, the historical method helped to investigate the development of e-governance, the main stages and significant events that influenced the implementation of this phenomenon in chronological order. Thus, the method helped to understand the regularities of the development of the phenomenon under study. One of the main research methods was comparative legal. Thus, by comparing the legal systems, institutions, principles and practices of implementing a particular reform, the development of the Ukrainian experience of e-governance was compared with the experience of Finland, Denmark, and South Korea. These are three countries that have a high level of e-government development. Thus, the method identified common and distinctive features of the development of the field under study and indicated certain advantages and disadvantages of management decisions. Moreover, these countries have some similar characteristics that determine the development of this institution, in particular, a high level of political support for the sphere, a focus on the development of human capital and human orientation of electronic services, and innovative solutions to improve e-government.

The use of the comparative legal method is also associated with the use of materials and statistical data, the source of which was the United Nations (UN). The relevant statistics related to the development of e-governance on the territory of Ukraine during 2010-2022, and the identification of leaders in this area in the world. The collection and interpretation of statistical data allowed considering certain patterns and indicators of the development of the phenomenon of e-governance and analysing main factors influencing this process (UN E-Government Knowledgebase, 2022).

It is also worth highlighting the method of legal hermeneutics, which allowed investigating the content of legal norms and the specifics of their application within the framework of the institute of e-governance. Thus, the objects of research were the concept of e-government development, approved by Decree of the Cabinet of Ministers of Ukraine No. 649-p "On Approval of the Concept of the Development of E-government in Ukraine" (2017), the consideration of which helped to clarify the concept of e-government and the main problems of this area, and such documentation of state origin as the General Government Fiscal Plan for 2024-2027 (2023), which provides for the development of the state budget and expenditures, the analysis of which determined the level of funding for the field of e-government.

The system structural approach helped to investigate and determine the range of subjects that have certain powers to implement e-governance, and those who can act as a participant in public relations that arise and develop in the relevant field. The use of general scientific methods, such as the method of analysis, identified issues related to a number of legal, economic, resource, social, and political obstacles associated with difficulties in implementing e-governance on the territory of Ukraine. This method also helped to identify problematic aspects of e-government, which should be given more attention and resources, respectively. Together with the analysis, the induction allowed studying foreign experience and individual policy decisions of different countries related to the development of e-governance and forming general recommendations on ways to improve this area on the territory of Ukraine. This method was also used to investigate the opinions of researchers on the subject of the study, based on which the general conclusion was formed.

Results

E-governance is a model of public administration aimed at improving the process of providing public services, transparency and efficiency of government bodies. The history of e-government can be traced back to the early days of computer technology, but the active development process is associated with the advent of the Internet in the 1990s. The development of personal computers (PCs) in the 1970s and 1980s allowed more government agencies to start using PCs for a wider range of tasks. The launch of the World Wide

Web in 1991 opened up new opportunities for e-government through the creation of websites to provide information and services to citizens. In the late 1990s, e-government initiatives were launched to improve the efficiency and effectiveness of public services. The current state and progress of e-government should be linked to cloud computing, open data, blockchain technology, and artificial intelligence (Twizeyimana & Andersson, 2019; Choi & Chandler, 2020; MacLean & Titah, 2022).

E-government has several defining features, expressed in its accessibility, interactivity and transparency, that is, citizens have round-the-clock access to public services, and can also actively interact with the government. Automation and digital processes reduce bureaucratic complexity, speed up the provision of services, and minimise document flow, which leads to resource savings, technologies used facilitate the collection, analysis, and use of data for making informed decisions, policy development and performance monitoring, adaptability, which involves the constant updating and integration of technologies into the service delivery process.

The study will consider the regulatory support of this category, for example, Ukraine has adopted the concept of e-government development in Ukraine, which states that "e-government is a form of public administration organisation that contributes to improving the efficiency, openness, and transparency of the activities of state authorities and local self-government bodies using information and telecommunications technologies to form a new type of state focused on meeting the needs of citizens" (Decree of the Cabinet of Ministers of Ukraine…, 2017). Figure 1 provides some data on the dynamics of the e-governance development index in Ukraine.

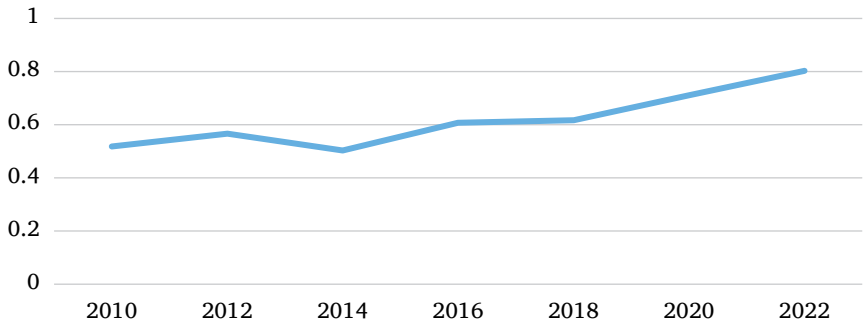

Figure 1. E-Government Development Index in Ukraine 2010-2022
Source: UN E-government knowledgebase (2022)

Thus, a significant increase in the index for the development of e-government in Ukraine is clearly illustrated, in particular, this growth was most pronounced in 2022. It is also worth pointing out that in general, compared to 2010, Ukraine has risen 8 steps up from 54th to 46th place in the world ranking of e-governance according to the UN. The largest decline from 2010 to 2022 was recorded in 2014 – Ukraine ranked 89th out of 190 countries, so compared to this year, the country rose by 43 steps in 2022 (UN E-Government knowledgebase, 2022). In 2016-2018, there was stagnation in the development of e-governance in Ukraine, which could be due to the lack of a clear development strategy and insufficient funding from the government. A significant increase in the development of e-governance during 2020-2022 was associated with the establishment of goals and objectives for this process, the introduction of government programmes, digital education and the "Diia" service.

E-governance has significant potential to improve the efficiency, transparency, and accessibility of public services. However, there are a number of problems in its development in Ukraine that need to be solved. One of the main problems is the lack of coordination and interaction between the authorities responsible for the development of e-governance, in particular, between the Cabinet of Ministers of Ukraine and the Ministry of Digital Transformation (Dhaoui, 2022). This leads to inefficient use of resources and delays in the implementation of projects; the insufficiently developed regulatory framework, in particular, the only concept that called for defining the goals and guidelines for the development of the state in this area, was adopted in 2017, and therefore cannot be considered relevant, given the rapid development and change of current areas for the development of e-governance in Ukraine; user data requires enhanced protection; problem of digital ignorance and inequality (Sungurova, 2022).

Digital inequality is the unequal access to and use of information and communication technologies between different population groups (Trotsyk *et al.*, 2023). Turning to statistics from the International Telecommunication Union, as of 2021, the percentage of people using the Internet is the lowest among people aged 75+ years, and is 19%. According to the Internet World Stat, as of January 2022, the share of the population of Ukraine that uses the Internet was almost 95% (Europe Internet Stats…, 2022). In addition, considering the statistics of "Diia", among the reasons for the lack of internet connection among Ukrainians, the most frequent are the uselessness of using the network, lack of appropriate skills, and high prices for access and equipment. Thus, the benefits of e-government and, consequently, the expansion of the range of e-services can create a visible disparity in access to these services, due to the lack of digital skills, education or Internet connection (Digital literacy of…, 2023).

In order to find effective ways to solve the relevant problems, it is necessary to analyse the world experience in the field of e-governance together with political solutions that have helped to improve this area. Attention should be paid to the experience of countries that are leaders in the e-government development rating, in particular Denmark, Finland and South Korea (Fig. 2).

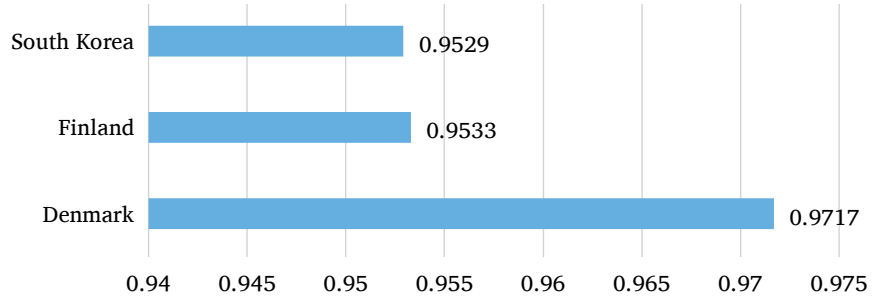

Figure 2. E-Government Development Index in different countries of the world 2022
Source: UN E-government knowledgebase (2022)

Denmark is the first in the rankings of world leaders in digital governance. Key factors of Denmark's leadership in the digital sphere should be linked to a number of factors, in particular, the early beginning of digitalisation – the beginning of the 1990s and active investment in this area, the provision of services based on the needs and requests of consumers, cooperation between the public and private sectors, the development of a culture of transparency in public government decisions (Slezák, 2023). Among the specific electronic public services that should be highlighted are the following: NemID, which is a digital identification tool that allows confirming a person's identity to receive services in the digital space, sign documents, use banking and medical services, and pay taxes; it is worth noting that the pilot project of this tool was created in 1999, and 11 years later the full version was presented for public use in the form of a mobile application. Improvements to the NemID system were introduced in 2022 under the name MitID, which was the result of cooperation between the private and public sectors to create an identifier that meets all cybersecurity requirements to protect users' personal data (Fleron *et al.*, 2022).

In Ukraine, a similar platform relative to the Danish MitID is Diia, which is both a mobile application and a web portal that provides an opportunity to receive a number of electronic public services, contains the necessary documents, in particular, a passport, birth certificate, driver's license, and based on the Diia service, a number of other products have been created that are focused on helping businesses, obtaining administrative services, educational materials. It is worth noting that the Ukrainian Diia application is a unique state product, so European countries are interested in its development and implementation, including Estonia, which ranks 8th in the E-government Index out of 193 countries (UN E-Government Knowledge Base, 2022). In order to strengthen and ensure reliable protection within the framework of the Diia, it is necessary to adopt the Danish experience of cooperation between the public and private sectors, involving independent experts in this process, so that the security of personal data meets international standards. Thus, focusing on the cybersecurity requirements that exist in Denmark will guarantee the privacy and confidentiality of users when transferring personal data or other information in the field of receiving electronic services.

It is also necessary to pay attention and compare Finland's experience in the field of e-government development, namely, those principles according to which there is a constant modification and improvement of the sphere, in particular, development strategies should be consistent, with clear and understandable goals, and it is important to have steady political support and commitment, openness to reforms. In contrast to the Danish experience, Finland emphasises the cooperation of public authorities at different levels, and not private representatives (Päivärinta *et al.*, 2019). It is advisable to add that this type of cooperation is acceptable in the case of confidence in the interests of the parties, but the situation on the territory of Ukraine suggests that attention is shifted towards the needs of the military sphere, so it is important to exchange experience, considerations, information not only within state structures, but also to be open to private initiatives (Väänänen, 2021). Denmark's experience shows that a large number of investments and budget funds are attracted to the field of e-governance. In the case of Finland, there is a decentralised system of expenditures for this area with central control over the use of resources, and large expenditures from clearly separated budget funds were undesirable, so the government of the country created centralised one-time funds that invested in the field of ICT and stimulated the development of the sphere.

The level of public spending on digitalisation and e-government development should also be considered, for example, in the state budget of Finland for 2024-2027, the level of allocations to the Ministry of Finance, which is responsible for this area, is EUR 38.1 billion and predictably will grow to EUR 41.2 billion (General Government Fiscal…, 2023). In the budget of Ukraine for 2024, expenditures for the Ministry of Digital Transformation are envisaged in the amount of UAH 2.5 billion, and although this amount is more than the expenditures of previous years, the difference between expenditures from Finland is clear (Law of Ukraine No. 3460-IX, 2023).

Another interesting experience in Finland that is worth exploring is AuroraAI, a national artificial intelligence programme that aims to prepare society for the introduction of broader, human-oriented and ethical technologies (Botrić & Božić, 2021). Thus, artificial intelligence provides a decentralised open network based on basic open data that is free for use; the programme can also anticipate future requests from society regarding electronic infrastructure, the need to introduce certain services, and provides training materials designed to reduce the gap in digital education between the young population and the elderly population (Malodia *et al.*, 2021). Ukraine, through cooperation with Finland, can adapt specific solutions and proposals within the framework of this programme, considering the needs of Ukrainian society. Moreover, Ukraine can use the experience of the AuroraAI project to develop its own strategy for the development of AI in public services, identify priority

areas of AI application, develop action plans and allocate resources for the implementation of these plans.

The experience of South Korea is similar to that of Denmark due to continuous and extensive investment in the development of e-government. It is worth paying attention to several platforms for providing electronic services in the Republic of Korea, in particular, the Korean online e-procurement system KONEPS, which is similar to the Ukrainian system transparently, but also provides an opportunity for foreigners to do business in the country by registering, submitting tenders, concluding contracts, and making payments (Yasir *et al.*, 2020). There is also a Korean electronic customs clearance system, whose task is to automate fees, taxes, and a number of other administrative processes. By 2026, the country plans to introduce 6G coverage, which will guarantee the smooth and reliable operation of all electronic platforms where citizens receive certain electronic services (Myeong *et al.*, 2021). The country also actively invests not only in the technical component, but also in the human component by creating specialised training centres for computer education, software engineering.

Cooperation with South Korea in implementing stable and secure internet coverage will also be useful. However, it is reasonable to understand that the adaptation and implementation of international practices in the functioning and development of e-governance requires adjustments to consider the context and needs of a particular society, and available technical, financial, and human resources.

Discussion

To develop a general vision and understanding of the phenomenon of e-governance, it is worth analysing some studies on the relevant topic. Thus, C. Von Haldenwang (2004) argues that e-government; the use of information and communication technologies in public administration has some potential. However, this potential depends on several factors, including the context in which e-government is implemented, the specific goals it aims to achieve, and the capabilities of both the government and citizens. Among the main challenges that the researcher highlights are the digital divide, which manifests itself in the lack of access to the Internet for some users, the lack of necessary skills to use e-government services; moreover, public authorities may face an insufficient amount of both technical and material resources, and human capital for the implementation and support of e-government systems. It is worth agreeing with the author's conclusions and adding that they confirm the results of this study. In particular, in Ukraine, among the main problems that arise in the process of digitalisation is digital inequality, and insufficient resources in comparison with the leading countries in this industry (Svoren, 2023).

Additional problems in the field of e-governance were noted by N. Al Mudawi *et al.* (2020). Thus, the key obstacles, in their opinion, are lack of awareness and technical experience, inappropriate IT infrastructure, which directly affects the reliability and security of electronic services, data confidentiality issues, and insufficient number and effectiveness of laws and regulations that are designed to regulate public relations in this area and financial obstacles, for example, limited budget expenditures. In general, the considered research partially corresponds to the results of this study, but for the successful implementation of e-governance, it is also necessary to have the trust of civil society, which can be obtained through educational programmes, training in basic skills for safe use of the Internet.

Issues related to the benefits of e-government were highlighted by C. Park and K. Kim (2020). Thus, the researchers investigated the relationship between e-governance and corruption, finding that the former reduces the latter. In general, according to the results, countries with a higher level of e-government development tend to have a lower level of corruption. And the introduction of e-government eliminates corruption risks even more, in particular, through specific types of e-government initiatives, including, among other things, the publication of public information on procurement. Although the findings of the researchers do not fully confirm the results of this study, it is reasonable to agree that countries with a high level of development have a well-established system of interaction between state authorities and relevant institutions, and also act in accordance with the requirements of legislative acts and the principles of the rule of law, so the benefits of e-government are felt more. For developing countries, the introduction of an appropriate institution can be a challenge, given the corruption aspects, the ineffectiveness of the legislative framework, and the lack of proper political will (Blikhar *et al.*, 2022).

Some researchers, in particular D. Agostino *et al.* (2021), indicate that the COVID-19 pandemic was the prerequisite and catalyst for digital transformation. Thus, the need for government agencies to look for solutions for the functioning and uninterrupted provision of services to the population contributed to the transition to the provision of online services and the creation of digital infrastructure. However, a number of other problems arose, which consisted in the need to overcome inequality among the population in access to electronic services. The findings do not correspond to the results of this study, but they are important to consider, because indeed, the introduction of the pandemic has led to significant shifts and changes in the usual process of providing and receiving all types of services, including state ones.

The introduction of e-government in Europe was investigated by A. Yera *et al.* (2020). The researchers noted that there are significant differences in the implementation of e-government in Europe, with countries such as Denmark, Finland and Estonia leading, while others such as Romania, Bulgaria and Greece lagging behind. The corresponding gap is related to aspects of technology, material and human capital, so it is emphasised that it is necessary to develop targeted strategies both to bridge the digital gap and to further encourage the introduction of e-government services in the territory of not only a particular country, but also the EU as a whole; to allocate more allocations and investments in the digital infrastructure of developing countries that are just beginning to implement the e-government system, to facilitate the exchange of experience between countries and strengthen intergovernmental cooperation under the leadership of EU governing bodies. Although the authors' conclusions only partially confirm the results of this study, they contain a detailed analysis of the experience of implementing e-government in the EU and the obstacles that countries face in the relevant process.

It is also worth paying attention to a similar study by A. Androniceanu and I. Georgescu (2021). The researchers aimed to identify key elements that characterise the development of e-government in the EU countries, in particular: telecommunications infrastructure and e-skills that reflect

technical capabilities and accessibility; online services and content that measure the quantity and quality of services offered digitally; transparency and citizen participation as an assessment of opportunities for openness and involvement of individuals in the relevant process; legal and institutional framework that reflects the state of the regulatory environment that regulates e-government and related relations. The results obtained by researchers are only partially consistent with the results of this study, but they are a valuable contribution to understanding the development of e-governance in Europe, in particular, by identifying the factors that make this process happen.

M.D. Lytras and A.C. Şerban (2020) examined the impact of e-government on further transformations in the field of digitalisation, in particular, the development of smart cities. Thus, the researchers emphasise that information and conclusions drawn from the experience of implementing electronic services can be useful in the process of forming a digital infrastructure for smart cities; and also emphasise the need for appropriate rules and clearly defined norms to regulate data confidentiality and security guarantees. The researchers also identify a certain similarity between e-governance and Smart City goals, because both are aimed at improving the provision of public services, attracting citizens, and developing transparency in government decision-making. Although the results of the researchers do not confirm the results of this study, it is important to consider them, because the development of e-governance allows developing related areas: smart cities, smart agreements. However, it is worth supplementing the researchers' views on the need for an effective regulatory framework, in particular, despite the fact that the importance of regulations is recognised, it is necessary to comprehensively investigate this issue from the standpoint of the complexity of developing such legislation that would correspond to the current state of digitalisation, and be flexible and adaptive to changes, given the constant development and improvement of technology.

The role of the economic and political components of the country in the development of e-government are considered by G.P. Dias (2020). Thus, the researcher points out that although high GDP per capita is a significant factor in the development of e-government and the size of investments that are invested in the sphere, but carefully designed and implemented policies can play a more crucial role in the implementation of successful initiatives in the development of e-government. The study emphasises the need not only for financial incentives in the sphere, but also for readiness to give priority to human capital, openness of the decision-making process, so investing in a logical and consistent development strategy will bring greater results. The researcher's conclusions are only partially consistent with the results of this study, but it is worth noting their importance and expediency. Thus, the researcher's views are confirmed by the example of Ukraine's experience in developing e-government, because compared to the budget allocated to this area by countries such as Finland, Ukraine has a limited amount of finance, but offers a wide range of electronic services and a unique resource – Diia.

Conclusions

The analysis helped to investigate the institute of e-governance. Thus, by studying the regulatory framework, its concept and main features were identified, which are that e-government implies an important part of e-government in general and is aimed at expanding the capabilities and range of public services and transferring them to the online plane, increasing transparency, reducing the use of resources, developing digitalisation.

The historical aspect of the development of e-governance is also outlined, and it is indicated that the main prerequisite for the development of this phenomenon was the creation and distribution of personal computers. The development of e-government on the territory of Ukraine is considered, so statistical data indicate a gradual increase in indicators and components of the e-government index according to the UN. The reasons for the decline, stagnation and growth of e-government development indicators on the territory of Ukraine, which are associated with insufficiently effective regulatory support, material, technical and economic, are clarified. The growth of indicators is associated with the creation and implementation of the Diia service within the Ukrainian state. A number of obstacles in this area are indicated, which consist in insufficient material, technical, and financial support, digital inequality and insufficient level of digital skills of some segments of the population. The paper also analyses the international experience of implementing e-governance, in particular, among the three leading countries in this area – Denmark, Finland, and South Korea. Among the main policy decisions that were made by these countries, it is proposed to adapt and adopt the Danish experience of cooperation between public and private institutions in order to create a reliable security environment for the provision of electronic services; it is also recommended to introduce a Finnish model of financing the sphere through centralised funds; in addition, it is necessary to adopt the experience of the Finnish AuroraAI project to develop its own strategy for the development of artificial intelligence, expanding the boundaries of digitalisation and introducing an educational component in the field of information technology.

For further research on related topics, it is proposed to clarify the following issues: smart cities and personal data: the risk of private information leakage.

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Conflict of interest

None.

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Електронний уряд в Україні та світі: порівняльно-правовий аналіз

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Анотація. Актуальність дослідження зумовлена стрімким технологічним розвитком та цифровізацією, що трансформує звичну сферу надання державних послуг. З огляду на це, метою наукового-дослідної роботи постав порівняльно-правовий аналіз електронного урядування та процесів його формування як в Україні, так і в інших країнах світу. Дослідження також спрямоване на виокремлення переваг та недоліків серед закордонного досвіду впровадження електронного уряду. Методами, які були використані у роботі, постали наступні: історичний, порівняльно-правовий, формально-логічний, метод юридичної герменевтики та метод індукції. Серед основних результатів доцільно виокремити з'ясування понятійного апарату, котрий є дотичним до тематики науково-дослідної роботи, зокрема поняття електронного уряду; дослідження історичного аспекту формування даного явища та його визначальних характеристик і особливостей. Також було проаналізовано основний нормативно-правовий акт у даній сфері на території України – Концепцію розвитку електронного урядування; а також нормативно-правові акти інших держав. У межах наукового дослідження також наводились і статистичні дані, котрі ілюструють розвиток електронного урядування в Україні протягом 2010-2022 років, а також розвиток даного інституту в інших країнах. Так, досліджено міжнародний досвід на прикладі таких країн, як Данія, Фінляндія та Південна Корея з дослідженням переваг та особливостей їхніх законодавчих та практичних рішень, реформ у даній сфері; на основі досвіду досліджуваних країн сформовано низку рекомендацій для української держави щодо формування та вдосконалення електронного урядування, процесів цифровізації, а також сфери надання державних електронних послуг. Результати науково-дослідної роботи можуть бути використані задля вдосконалення нормативно-правової бази та ефективного реформування сфери електронного уряду і процесу цифровізації сектору державних послуг

Ключові слова: цифровізація; діджиталізація; державні послуги; інформація; управління

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Multi-level public administration in the context of hybrid threats

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Abstract. The research relevance is determined by the need for effective coordination and cooperation between different levels of government to address current challenges and threats. The research study aims to thoroughly analyse hybrid threats in the context of the public administration system, which includes elements of external and internal threats, such as information warfare, cyber threats, disinformation, terrorism, and economic pressure. The study used methods such as synthesis, comparison, structural-functional and formal-legal methods. The study examined the legislation of Ukraine and the EU in the field of public administration at the national level, and as a result of the review, a comparison of approaches to governance in the context of hybrid threats was made. The study proposed strategies to combat various threats that can be applied in Ukraine at different levels of government. These are prevention, detection, and counteraction strategies. They interact with each other to create a comprehensive hybrid threat management system. Understanding the different strategies allowed us to formulate recommendations for policymakers, government, and public authorities to increase resilience and ability to respond to hybrid threats in the context of multi-level public administration. The study examined international policy documents aimed at addressing various aspects. These documents helped to find a single comprehensive approach to enhancing preparedness and response to threats of various kinds. The practical significance of the research is that the proposed strategy options will help society and the

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government of the country to effectively combat various threats and maintain stability and security in the context of hybrid confrontation and full-scale war

Keywords: crisis; martial law; economic security; national interests; decentralisation

Introduction

Today, the concept of a "hybrid threat" has become relevant in light of current geopolitical and technological changes. The study of the concept of "hybrid threat" allows us to better understand and analyse new types of threats faced by states and the international community. The study of this issue is important in the context of the public administration system, since with the development of technologies and information tools, parties to conflicts can use a variety of tools, which poses certain challenges for the authorities in the management system to avoid or overcome the consequences of hybrid threats. This topic is being discussed both in academic circles and at various levels of public administration and in the legal context to ensure safe conditions for the functioning of all spheres of public life. Today's situation shows that Russia's full-scale war against Ukraine has led to a profound rethinking of conceptual approaches to global security and defence of the future. As a result, ineffective public administration leads to a dangerous situation for the state. Approaches and principles of the entire multi-level system of public administration are radically changing and provide an unusually high level of responsibility for decisions (Meduna, 2023). In such circumstances, the study of the principles and roles of all levels of public administration becomes particularly important.

The study of aspects related to the revision of the principles and functions of multilevel public administration in the context of hybrid threats is not a common subject of research by both Ukrainian and international scholars (Hudyma, 2021; Shevchuk & Mentukh, 2021). However, some aspects of the functionality of public authorities in non-standard crisis conditions are being actively studied by scholars, in particular, considering public administration of national security, crisis phenomena and peculiarities of public administration in hybrid warfare. V.O. Kopanchuk (2020) argues that the problems of ensuring national security and maintaining public order are caused by the need to develop new conceptual methods for analysing trends in social development using modern methods of the scientific community, primarily the science of public administration, to assess trends in the development of the environment affecting national security, as well as to identify mechanisms and factors influencing its formation in the context of modern challenges of globalisation.

O. Busol (2020), Chief Researcher of the Interagency Research Centre at the National Security and Defence Council of Ukraine, emphasises that to understand the basic concepts of hybrid threats, it is necessary to analyse such concepts as "risk", "threat", "security policy", which are fundamental to security theory. This makes it possible to analyse these problems in detail and from different angles. Also, important information is provided by S. Grishko and V. Sokhina (2022). They proved that decision-making systems are one of the targets of hybrid attacks. One way to achieve this goal is to erase traditional dichotomies and create ambiguity. This method allows people to use a bipolar approach to thinking (e.g., distinguishing truth from lies, friendly from hostile). The decision-making process is largely based on this bipolar way of thinking.

Another scholar who has studied the topic of multi-level public administration is A. Kolodka (2022). His research confirms the fact that information is the basis for decision-making in the field of public administration and plays a key role in ensuring the security of the state. In addition, the author believes that the organisation and support of important support systems is one of the main components of the activities of governing bodies. Thus, it can be noted that conducting research and developing methodological recommendations provides an opportunity to gain best practices in the field of public administration. Z.Z. Denysiuk (2021) noted in one of his works on strategies of the state information policy that the strategic line of the state information policy is aimed at forming guidelines for the state's activities in the field of information and at managing this area through legal regulation. Therefore, the main idea of his work is to provide citizens with sufficient access to information, to expand opportunities and provide means for the effective use of information, to increase the level of security, to support the protection of information resources, and to promote international cooperation.

T. Petreman and K. Dubych (2021) highlight the interconnection and interaction of development factors and threats to the economic security of the state at different levels of economic management, such as national, regional, and global levels. To formulate and implement the state policy aimed at ensuring security, it is necessary to effectively use the potential of the economy, and promote the development of production and cooperation, including the implementation of projects and the creation of a favourable sustainable investment climate through the systematic achievement of strategic and tactical goals of the functioning and development of the foreign economic and domestic socio-economic system of the state.

The analysis shows that none of the published articles pays due attention to the methods of improving multi-level public administration in the context of hybrid threats and military invasion. Therefore, the purpose of this study i was s to conduct an in-depth analysis of the concept of "hybrid threats" in the context of public administration systems, which includes elements of external and internal threats.

Materials and methods

In the current context, there is a need to improve public administration to prevent hybrid threats, which are characterised by different hierarchical approaches to improving traditional administrative structures. Various sources of data were used to develop a variant of improving this system. Such sources include scientific literature on the theory of hybrid threats, as well as official documents and legislative acts, orders, and instructions of the relevant state authorities. In the current context, ensuring the national security and defence of Ukraine requires a comprehensive approach and the implementation of various measures and strategies. The formal legal method was used to review the main

legislative documents defining the policy in the field of national security and defence of Ukraine (Law of Ukraine No. 1932-XII, 1991; Law of Ukraine No. 2469-VIII, 2018; Decree of the President of Ukraine No. 260, 2021). These documents relate to the improvement of the network of situation centres and the digital transformation of the national security and defence sector. These documents define strategic steps and priorities in ensuring the security of the state.

In parallel with national laws, the programme documents of international organisations such as the UN, the EU, the North Atlantic Alliance (NATO), the Organisation for Economic Co-operation and Development (OECD) and the Organisation for Security and Co-operation in Europe (OSCE) were considered (National policy frameworks on resilience in OECD countries, 2016; DCAF – Geneva Centre for Security Sector Governance, 2023). These policy documents are aimed at supporting sustainable development, ensuring peace and security, and developing partnerships between states. They contribute to building national resilience around the world and addressing various aspects of security, including addressing the root causes of conflicts, promoting unity and trust, developing leadership, and implementing a comprehensive approach to improving preparedness and responding effectively to threats of various kinds. Moreover, documents aimed at countering hybrid threats were analysed (Joint Communication to the European Parliament and the Council, 2016). A comparison of statistics and reports on crises discussed at the NATO Summit (Madrid, Spain) (2022) and the G7 Summit "Moving Towards a Just World" (Germany) (2022) was also conducted, which allowed to reveal the essence and unique aspects of such events.

To study and define the concepts of "hybrid war", and "hybrid threats" and their impact on the economic security of Ukraine, the structural-functional method was used. The method was used to consider these concepts as a complex system and to identify the interrelationships and influence of various factors on this phenomenon. The synthesis method was used to analyse and describe the dynamics of threats in different regions of Ukraine in 2022-2023. This method helped to reveal the complexity and diversity of threats and identify their evolution over time. The synthesis method was used to study the evolution of the problem statement and the sequence of its solution, as well as to establish links between social phenomena and events. This method helped to identify logical connections and patterns in the process of understanding hybrid threats and their impact on economic security. The use of these methods in the study was used to obtain reasonable conclusions and recommendations on possible ways to improve the organisational structure of public administration for more effective functioning in crises.

Results

Multilevel public administration in the context of hybrid threats is a very important and relevant issue for the study of research, as the modern world is facing various forms of hybrid threats that include elements of military aggression, political manipulation, cyberattacks, disinformation and other methods of influence. In this context, multilevel public administration means the joint activities of different levels of government that work together to protect national interests and the security of the population. To analyse this issue, the specifics of hybrid threats, including their features and methods of influence, were considered. Hybrid threats include various methods and techniques that are combined to conduct hostile activities that can be difficult to detect and disrupt. These threats span the political, economic, social, and technological spectrums (Joint Report to the European Parliament and the Council, 2016). Several key characteristics can be attributed to hybrid threats. They are multidisciplinary, using a variety of means and methods, such as disinformation, cyberattacks, economic pressure, political influence, and military action, to cause maximum damage or inconvenience to the target country or organisation. The use of information technology, such as cyberattacks and information manipulation, is also a key component of hybrid threats. This can include hacker attacks, spreading fake news, manipulating social media and other online tools.

Hybrid threats also aim to exploit vulnerabilities in the social, political, and economic systems of the target country. They can exploit social conflicts, political divisions, or economic instability to achieve their goals. Furthermore, hybrid threats are constantly evolving and adapting to the measures taken to eliminate them. They may change their methods and techniques to evade detection and disruption. Countering hybrid threats requires joint action at the political, military, information, and economic levels. Coordination and cooperation between different actors, including governments, organisations, and civil society institutions, is critical (Yevtushenko, 2023). Due to its importance for national administration, public administration has become an essential tool of national governance. The development of public administration can be seen as one of the key conditions for improving the performance of all public bodies, including the system of government.

Globalisation and the rapid evolution of global trends determine the growing importance of management activities and the specifics of management work, which affects their effectiveness. The inconsistency between the existing system of governing bodies and the system of local self-government requires public administration reform. Modern Ukrainian society is experiencing a transformation crisis. One of the important factors that can contribute to overcoming this crisis is the creation of a modern and effective public administration system. For a long time, the need for a new system of public administration as a means of overcoming the crisis in Ukraine was not recognised. After Russia's full-scale invasion of Ukraine, the need to find other directions, modern responses to challenges and anticipation of hybrid threats in the context of external aggression and internal imbalance, including an analysis of the concept of national resilience, is essential.

This study will further analyse in detail the multi-level system of public administration in Ukraine, as well as the typical functions performed at each level of this system. These functions are in line with the strategic and current goals of decentralisation are based on the principles of peaceful coexistence and are aimed at promoting the country's development. Information about this system and the functions of the different levels of government is presented in Table 1. The analysis of the functions of the national and regional levels of government was used to reveal the integrity of the multi-level system of public administration and establish the relationship between them (Johnstad, 2023). An important aspect of this system is to ensure the effectiveness of each level and link, which together contribute to effective governance in the state, strengthening its viability, competitiveness, and development.

Table 1. Functions performed by the multi-level system of public administration in Ukraine

Management levels	Functions
National level	
Ukraine President	The head of state acts on behalf of the state and is responsible for ensuring its sovereignty, territorial integrity, implementation of the Constitution and protection of the rights and freedoms of citizens. He or she performs various functions, such as representative, constituent, controlling and others. In domestic political affairs, the President ensures national security, independence, and succession of the state, and delivers a message to the people and regular or extraordinary messages to the Verkhovna Rada on the situation of Ukraine internally and externally.
Verkhovna Rada of Ukraine	It is the only nationwide permanent collegial organisation elected by law. The Verkhovna Rada has various functions, including legislative (which is a priority), representative, constituent (aimed at forming state structures and organisations), parliamentary oversight, budgetary and financial, and foreign policy functions.
Cabinet of Ministers of Ukraine	It is the highest executive body responsible for ensuring state sovereignty and economic independence of the country, implementing both domestic and foreign policies, and observing the Constitution and laws of Ukraine, as well as acts of the President of Ukraine. It is responsible for measures aimed at protecting the rights and freedoms of citizens and creating conditions for their free and harmonious development. In addition, it must ensure the conduct of various types of economic activity.
Ministries	Non-central level in the system of executive authorities. The functions and responsibilities of this body include the following aspects: 1. Regulation of the legal and regulatory sphere. 2. Determining strategic development directions. 3. Analysis and application of legislation, implementation of proposals for its improvement and preparation of draft legislative acts and acts of the President of Ukraine and the Cabinet of Ministers for submission to the President and the Government. 4. Performing other tasks established by the laws of Ukraine and imposed on this body by acts of the head of state.
Regional level	
Local self-government	The tasks and functions include the following responsibilities: management of municipal property; approval of programmes for socio-economic and cultural development and systematic control over their implementation; approval of budgets of the relevant administrative units and control over their financial implementation; setting local taxes and fees; organisation of local referendums and implementation of their results in practice; establishment, reorganisation and liquidation of municipal enterprises, organisations and institutions, as well as systematic supervision of their activities; resolution of other issues of local importance and defined by law as part of their competence.
Local state administrations	It is a component of the structure of interinstitutional power relations that ensures the implementation of such tasks: 1. Control over the compliance with the Constitution of Ukraine, legislation and regulations of the executive authorities adopted within their competence; 2. Implementation of economic, environmental and other targeted programmes (both at the local government and national level), budget execution and reporting on their implementation; 3. Interaction with local governments and the exercise of powers by these authorities.

Source: P.G. Johnstad (2023)

In the pre-war period, Ukraine implemented decentralisation reform as one of the key aspects of modernising the multi-level public administration system. The project of reforming the territorial organisation of local government in Ukraine envisages the achievement of the following important results as a result of the decentralisation reform: Strengthening the resource, infrastructure and legal capacity of territorial communities and local governments operating following the principles and standards set out in the European Charter of Local Self-Government; introducing a mechanism for monitoring the quality of public services provided by local governments by local executive authorities and the public; creating a legal context to facilitate the development of direct democracy mechanisms and the active involvement of citizens and other civil society actors in decision-making (Heryanti *et al.*, 2023). It also involves other important aspects and tasks.

In the period from 2014 to 2020, Ukraine adopted several legislative acts aimed at implementing decentralisation reforms. In the scientific spectrum of theoretical and practical research, the term “decentralisation” is considered in different aspects and from the point of view of different disciplines (Séogo & Zahonogo, 2023). From the political science point of view, decentralisation is seen as a political system that provides for the distribution of functions and powers between central and local authorities to optimise the resolution of issues of national importance and the implementation of regional programmes. A careful analysis of different approaches to the concept and essence of decentralisation leads to the conclusion that decentralisation should be viewed as a long-term process characterised by management activities and requiring adequate resources for the transfer of powers. From this point of view, decentralisation can be defined as the process of transferring powers, competencies, and resources from central government to local authorities and self-government.

The scientific discourse traditionally considers the following motivations for the implementation of decentralisation: the need to increase productivity, mobilise resources, ensure transparency in their use and create an accountability system (Puehringer *et al.*, 2021). These needs can be combined in one direction, using the principle of

subsidiarity as a key principle of institutional organisation of power and multi-level governance, including in the context of hybrid threats. However, it is important to note that research on these issues is relevant even in peacetime. The event of the Russian full-scale invasion has necessitated the adjustment of the principles of multi-level governance. This is determined by the need to preserve the territorial integrity of the country, which can only be achieved through the unification of all branches of government, the business sector, and the public to achieve this strategic goal. It is also important that the decentralisation reform in Ukraine is designed to improve the financial security of amalgamated territorial communities and reduce the likelihood of hybrid threats, and the systematisation of risks associated with decentralisation should be carefully analysed (Table 2).

Table 2. Classification of risks associated with the decentralisation process based on the main factors of development of territorial socio-economic systems

Key factors in the development of territories	Risk and challenges
Professional management	Possible dangers and difficulties caused by corruption due to political, family, backroom, local or other agreements of government officials. Risks and difficulties associated with poor governance, including financial governance.
Availability of resources for operation	The risk of a shortage of financial resources in certain territories. The possibility of a decrease in the attraction of public funds in the form of transfers and funds. Risks of further growth of inequalities in resource opportunities for the development of territories, including entrepreneurship, availability of natural resources, property, and tax collection. Possibility of further deepening differences in socio-economic development between different territories.
Working with a higher-level system	Possible threats to macroeconomic stability. Dangers associated with further widening of financial inequality between different regions of the country. Risks associated with violation of the principles of justice in the social sphere. Possible dangers associated with separatist sentiments that threaten the country's integration.

Source: compiled by the authors

Thus, while the numerous benefits of decentralisation processes are important, it is also important to consider their potential risks and threats. Thus, territorial communities at the basic level, as well as local governments at higher levels that assume additional financial, budgetary, and social functions, should be aware of and take responsibility for the development of their territory (Tkachuk & Yevsyukov, 2022). On the other hand, public authorities should take these risks into account when formulating the national security strategy. In this context, it is important to define the term "hybrid threat", which refers to any adversary that uses a variety of means, including weapons, irregular tactics, terrorism, and criminal activity in the conflict zone to achieve its political goals.

Hybrid threats cover a wide range of conflict modes, including conventional weapons, irregular tactics, the formation of armed groups, terrorist acts and the spread of criminal activity. When considering the possibility of hybrid threats, in particular military threats, it is necessary to identify the main causes and factors of military danger for Ukraine in the current circumstances (Backman, 2020). These sources can be divided into external and internal (Fig. 1).

External causes	Internal causes
1. The presence of territorial disputes. 2. Interest in using changes in Ukraine's foreign and domestic policy to their advantage. 3. The desire to reduce Ukraine's political, economic and military influence in the interests of its dominance in the region. 4. The presence of significant military formations near Ukraine's borders.	1. Anti-Ukrainian propaganda, supporting separatist forces in Ukraine and promoting the decay of inter-ethnic and inter-confessional relations. 2. Interest in gaining control over key strategic facilities and communication networks in Ukraine.

Figure 1. Main sources and factors of military danger

Source: compiled by the authors

The importance of these sources is particularly significant due to the presence of other objective factors emanating from neighbouring states. These factors include internal economic and socio-political instability; insufficient legal regulation of interstate relations with Ukraine; and the presence of a powerful military potential combined with a steady increase in military spending. Therefore, studying examples of countries that successfully counter hybrid threats and analysing their strategies and measures is an important task. As for the experience of international cooperation, the EU has quite clearly defined the concept of "hybrid threats" and developed measures to prevent them. In this context, several documents have been created that reflect the EU's strategic approach to countering hybrid threats and ensuring stability and security in the region. The following documents can be distinguished among them (Fig. 2).

A Global Strategy for the EU's Foreign and Security Policy: this key document, adopted in 2016, represents the overall strategic vector of the EU's actions in the context of hybrid threats and defines common goals and objectives to ensure security and stability in the region.

Joint Communication to the European Parliament and the Council. Joint Framework on countering hybrid threats a EU response (2016): this document sets out the EU's framework and strategic approach to countering various hybrid threats, including information warfare, cyber attacks, influential diplomacy and other aspects.

Eastern Partnership – 20 Deliverables for 2020: focusing on key priorities and tangible results (2017): This document focuses on specific tasks and goals in the context of the EU's Eastern Partnership and the development of the region until 2020, including aspects of security and countering hybrid threats.

Council conclusions on progress in implementing the EU Global Strategy in the area of Security and Defence (2017): this report notes the progress in implementing the strategic decisions set out in the EU Global Strategy and other documents and provides an assessment of the situation.

EU operational protocol for countering hybrid threats "EU Playbook" (2016): this document presents a specific set of measures and recommendations for action in the event of hybrid threats and provides guidance on how to respond.

Countering hybrid threats: EU-NATO cooperation (2017): this report analyses the cooperation between the EU and NATO in countering hybrid threats and provides recommendations for improving this cooperation.

Figure 2. Documents that reflect the strategic approach of the EU

Source: compiled by the authors based on Joint Communication to the European Parliament and the Council. Joint Framework on countering hybrid threats a European Union response (2016), A Global Strategy for the European Union's Foreign and Security Policy (2016), EU Operational Protocol for Countering Hybrid Threats "EU Playbook" (2016), Eastern Partnership – 20 Deliverables for 2020: Focusing on key priorities and tangible results (2017), Council conclusions on progress in implementing the EU Global Strategy in the area of Security and Defence (2017), Countering hybrid threats: EU-NATO cooperation (2017)

These documents represent an important policy tool for ensuring security and resilience in the region and demonstrate the EU's serious approach to addressing hybrid threats. The EU has established a classification of areas subject to countering hybrid threats. These areas include information, energy, transport and infrastructure, space activities, military, health and food security, cyberspace, financial, industry, and the public or societal dimension. It is important to note that the EU takes the identification of hybrid threats seriously and in 2020 proposed the establishment of the EU Hybrid Fusion Cell for the analysis of EU hybrid threats within the EU Intelligence and Situation Centre (EU INTCEN) of the European External Action Service. This Centre has already been launched and is responsible for collecting, analysing, and disseminating open and classified information related to hybrid threat indicators and warnings (Świderski *et al.*, 2020). This structure ensures the systematisation of hybrid threats at the European level and disseminates information on them, including the Hybrid Bulletin, between EU institutions and EU member states.

In the context of Ukraine, the threat of hybrid influence has covered almost all spheres of public life, such as the economy, politics, culture of memory and the information sphere (November *et al.*, 2022). Limited diversification of markets for Ukrainian products, dependence on the Russian market in key sectors of the national economy, and the lack of alternative sources of resource supply have created a threat to national security. Industry and infrastructure continue to be costly and inefficient. The lack of proper information and cultural policy has led to the cultural occupation of the minds of a large part of the population. Propaganda has created an artificial problem of discrimination against the Russian-speaking population. The information environment of Ukraine, in the absence of proper Russian and English-language content, has become closed, uncompetitive, and unable to effectively present Ukraine's position on the global level (Kyrydon & Troyan, 2023).

As analysts emphasise, hybrid threats are also concentrated in the non-military sphere. The main international threats to Ukraine that are being actively used in the hybrid war at this stage are the growing tendencies towards separatism in some border areas, except for the temporarily occupied parts. It is also the lack of proper law and order, as well as the absence of an effective mechanism to combat crime, especially organised crime, and terrorism. This leads to uncontrolled penetration of subversive and provocative groups into the territory of Ukraine. They also include the uncontrolled withdrawal of material and financial resources from Ukraine, mainly from uncontrolled territories (Steingartner & Galinec, 2021). An equally important threat is unjustified immigration, where residents of uncontrolled territories come to Ukraine in search of pensions and benefits, and then may return to the temporarily occupied territories of Ukraine.

The diversity of weaknesses in the context of hybrid threats allows us to conclude that this problem remains relevant today, which in turn poses a threat to destabilisation processes and weakening of Ukraine through violation of the system of citizens' rights and freedoms, lowering their living standards and disruption of peace and stability.

Ensuring the resilience of public administration to hybrid threats is an important task for policymakers and government officials. Here are some specific recommendations that Ukraine can implement to prevent other hybrid threats in the future and minimise existing ones: Create a national

strategy – develop a comprehensive national strategy to identify, analyse and counter hybrid threats. It should define the roles and responsibilities of various government agencies and structures.

Next, attention should be devoted to improving cybersecurity – ensuring a high level of cybersecurity in government information systems and networks to prevent cyberattacks and leaks of confidential information. Education and training should also be improved to provide training and skills development for government employees to identify and respond to hybrid threats, including disinformation and manipulation on the Internet. Other suggestions include support for media and journalism, which would strengthen freedom of speech and media independence to reduce the impact of disinformation and fake news.

Cooperation with other countries can also be included – support international cooperation to exchange information and experience in the field of hybrid threats. Openness and transparency in the system should be added to ensure that information is open and accessible to the public to reduce the possibility of manipulation and corruption. These recommendations will help strengthen the resilience of public administration to hybrid threats and reduce their impact on society and democracy.

Discussion

In order to effectively confront the challenges posed by globalization, it is essential for nation states to collaboratively harness their capabilities. This collaborative effort aims to address the complexities of existence within a globalized social framework while simultaneously safeguarding diversity. Consequently, there is a call for the integration of nation states into a cooperative community guided by specific principles of collaboration. The objective is to establish a global actor capable of making decisions, particularly those that enhance its significance and competitiveness in the realm of interstate relations (Karamyshev, 2019). In the midst of these transformative circumstances, the primary focus should be on resolving the conflicts between contemporary needs and the available opportunities for their resolution. This process is identified as the pivotal issue in global development, along with the formulation of strategic frameworks for the development of individual national states amidst hybrid threats and challenges.

The study highlighted various aspects of hybrid threats that pose an important challenge to modern society and multi-level public administration. The study examined such phenomena as cyberattacks, disinformation and influential operations and their consequences at different levels of society and in public administration (Valenza *et al.*, 2022). The detailed analysis revealed the importance of understanding and combating these threats to ensure stability and security. The study focused on how different levels of public administration respond to hybrid threats. It also examined the various strategies, policies and measures that are being developed and implemented to protect society and the state from these threats. An equally important part of this study was the role of international cooperation in combating hybrid threats. The experience of other countries and the possibilities of coordinating actions at the international level to ensure effective counteraction to these threats were considered. International cooperation is an important tool in addressing the challenges of hybrid warfare and maintaining stability in the world (Shahini *et al.*, 2024). Studying the response of public administration is an important step in raising awareness and responsibility in this area.

The management system of any economic entity is based on its specific principles, which are implemented through the structure of public administration institutions. Each of these principles plays an important role in the formation of a multi-level public administration system. However, these principles do not fully correspond to current development trends and do not consider the need to ensure the unity of methodological approaches, the relevance of the comparative analysis of the reliability of the results obtained, and the continuous improvement of information support for the management process. Public and programme management requires mandatory adherence to these principles, including unification of methodological approaches, comparative analysis of the validity of the results obtained and informatisation of all aspects of the management process. This will help to overcome the identified conflicts and introduce "results-based management" tools into the system of multi-level public administration.

According to V. Abroskin (2018), administrative and political activity in the theory and practice of the administrative and legal field of public administration includes the areas of national security, national defence, internal affairs, foreign affairs, and justice. The governing bodies of these branches are integral parts of the unified state administrative system, linked to the executive branch, and actively perform state functions. National security and the bodies that manage it occupy a particularly important place in the system. This statement by the researcher coincides with the results of this paper. Today, there is no clear mechanism for the functioning of public administration in the field of national security, but it is undeniable that the national security of Ukraine is now the object of state governance. The security and defence system, as a subject of national security, has various components. Ukraine's security and defence system consists of 4 interdependent elements: defence forces; security forces; the defence industry; and citizens and public associations that voluntarily participate in ensuring national security (Jeong *et al.*, 2023). It should also be added that the role of various government agencies, which played an important role in the emerging internal threat, should not be underestimated. In today's environment, all government agencies must work together to implement ideas, as this directly affects the state of Ukraine's information security.

Democracy today brings a diversity of views and points of view, and in this context, it is necessary to ensure national unity, which largely depends on the state of national security. The modern concept of national unity requires that everyone be able to distinguish between genuine national interests and artificial, fictitious, or confessional national interests. After gaining independence, to fulfil the national interests of the people, it is necessary to ensure stability, prosperity, peace and evolutionary development of the country and the nation (Spytska, 2024). National security cannot be separated from a strong country, stable central government, and stable society. The protection of the country and national security should be properly targeted, and its basis is economic and financial sustainability (Pinto *et al.*, 2021). The components of national security cannot be universal or the same for all countries. They depend on the degree of development or stagnation of each country. For example, the US National Security

Council focuses on addressing issues related to the protection of US national interests at the global level. In Ukraine, the ongoing internal crisis requires, first and foremost, targeted efforts to address a wide range of domestic problems.

L. Bardžieva Miovska (2022) points out that the need to modernise society often leads to copying westernisation measures or improving the old reform model, which can only increase the risks of threats and risks to national security. One of the main threats to national security is the phenomenon of a synergistic system of governance crises, which are activated by both external and internal factors. Thus, as noted earlier in this study, the processes of hybrid threats do indeed affect not only socio-economic aspects but also various other areas of social processes, including military ones, turning them into a system of a modified mechanism of crisis functioning of society. Thus, in today's Ukrainian society, any transformation in any sphere of life and activity (political, social, economic, military, organisational, legal) should be based on the general principles of effective reform.

Considering this issue, it is worth paying attention to the study by B.A. Olaniran and J.C. Scholl (2020), in which the researchers note that the main mistake in crisis management, often made in public and private organisations, is the emphasis on crisis response through preparedness and planning to address unforeseen situations. It should be added that preparing for and managing crises involves problem management. This means identifying complex problems that may affect an organisation or community and finding ways to solve these problems before they turn into a crisis.

It is also possible to note a study by C. Whyte (2020), where the scientist argues that hybrid threats mean that the enemy can use various types of attacks, including cyberattacks, information propaganda, disinformation, economic pressure, political influence, military actions, and other methods to achieve its goals. It is worth agreeing with the author's opinion that cybersecurity includes measures and strategies to protect computer systems, networks, information and data from cyber criminals and cyber spies. This statement cannot be disagreed with, as cybercriminals can use cyberattacks to obtain important information and data that can be used for various purposes, including espionage and disinformation (Metelskyi & Kravchuk, 2023). Since hybrid threats include many different aspects and methods, cybersecurity is becoming key to ensuring the resilience and protection of society and the state from such threats. Developing and implementing effective cybersecurity strategies is an important task for protecting the interests and security of the state in the face of hybrid threats.

J. Zhang *et al.* (2022) reveals the complex interaction between multi-level institutional arrangements and local innovation mechanisms. The authors' opinion coincides with the results obtained in this study. It is possible to add that the interaction between multilevel institutional mechanisms and local innovation mechanisms is a process of cooperation and interaction between different levels of government and institutional structures in the field of development and support of innovations at different levels of territorial organisation, including the sphere of national security. This interaction contributes to the creation of a favourable environment for innovative development and supports local innovation initiatives in the field of hybrid threats. It is important to consider this process as a key element of the innovation governance framework, as it facilitates the exchange of knowledge, resources and experience between central and local authorities, industry, and other stakeholders to promote sustainable innovation and economic growth at the regional and international levels.

Conclusions

Thus, it is possible to conclude that Ukraine, like any other country, faces various threats and crises, such as natural disasters, man-made accidents, terrorist threats, conflicts, and, as of today, a full-scale war against Ukraine, its borders, and citizens. In the context of these challenges to the national security and resilience of the country, it is necessary to emphasise the need for effective management and response to such events.

With this in mind, the country should improve its crisis response mechanisms and adapt its multi-level public administration to these challenges, especially during martial law. Hence, the country should maintain well-developed systems for monitoring, warning, and responding to natural disasters, as well as thoroughly study technical and technological risks that could lead to man-made accidents. In addition, it is necessary to have developed plans for dealing with terrorist threats and conflicts, as well as the ability to mobilise resources and coordinate the actions of various governing bodies and security forces during crises. It is also important to emphasise the importance of international cooperation and support in crisis management, especially in times of war, when external factors can have a significant impact on the internal affairs of a country.

In general, the concept of "crises that threaten national security" is actively used in the context of formulating the tasks and functions of the security forces, the Ministry of Internal Affairs of Ukraine and the National Security and Defence Council of Ukraine, including the Security Service of Ukraine, the Special Operations Forces of the Ministry of Defence of Ukraine. These bodies should be responsible for the implementation of state policy in the field of national security during crises and ensure coordination between different components of the security and defence sector to effectively overcome such crises. Thus, Ukraine should consider its activities in the field of countering hybrid external threats as a comprehensive approach and one of the central problems that requires immediate solutions.

A generalised analysis of the world experience in the field of national resilience, including effective practices and different approaches to the organisation of the national resilience system, along with the study of key processes in this context, helps Ukraine to make an informed choice in determining the national model of national resilience, considering the national interests of the state and the peculiarities of its development. Thus, effective crisis management and response is a key task for ensuring Ukraine's national security and stability. Adapting multilevel public administration to these challenges requires systematic efforts and investments in the development of appropriate mechanisms and resources to ensure effective responses to various crises, including in times of war. This topic also holds promise for further research. The research could focus on analysing the impact of hybrid threats on society and developing methods to increase public awareness and preparedness to act in the event of threats.

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Conflict of interest

None.

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Анотація. Актуальність дослідження визначається необхідністю ефективної координації та співпраці між різними рівнями влади для протидії сучасним викликам і загрозам. Метою дослідження є ґрунтовний аналіз гібридних загроз у контексті системи державного управління, які включають елементи зовнішніх та внутрішніх загроз, таких як інформаційна війна, кіберзагрози, дезінформація, тероризм, економічний тиск. У дослідженні використано такі методи, як синтез, порівняння, структурно-функціональний та формально-юридичний. У ході дослідження було проаналізовано законодавство України та ЄС у сфері державного управління на національному рівні, і в результаті огляду було зроблено порівняння підходів до управління в умовах гібридних загроз. У дослідженні запропоновано стратегії боротьби з різними загрозами, які можуть бути застосовані в Україні на різних рівнях державного управління. Це стратегії запобігання, виявлення та протидії. Вони взаємодіють між собою, створюючи комплексну систему управління гібридними загрозами. Розуміння різних стратегій дозволило нам сформулювати рекомендації для політиків, уряду та органів державної влади щодо підвищення стійкості та здатності реагувати на гібридні загрози в контексті багаторівневого державного управління. У дослідженні було проаналізовано міжнародні політичні документи, спрямовані на вирішення різних аспектів. Ці документи допомогли знайти єдиний комплексний підхід до підвищення готовності та реагування на загрози різного роду. Практичне значення дослідження полягає в тому, що запропоновані варіанти стратегії допоможуть суспільству та уряду країни ефективно протидіяти різним загрозам та підтримувати стабільність і безпеку в умовах гібридного протистояння та повномасштабної війни

Ключові слова: криза; воєнний стан; економічна безпека; національні інтереси; децентралізація

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Developing potential budget reform for Latvia: Shifting from conventional to contemporary budgeting

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Abstract. Modern changes in politics and economics around the world are occurring so rapidly and frequently that outdated budget planning principles no longer have time to respond to these challenges. That is why the development of ideas for modernizing the principles of budgeting in the Republic of Latvia is very relevant. The purpose of this paper is to develop recommendations for changes in approaches to state budgeting. In the course of the study, the methods of statistical analysis, synthesis, and structuring were used. Using the methods of retrospective and comparative analysis, the changes in the budget legislation of Latvia that have taken place over the three decades of restored independence were also studied. The study analysed the existing procedure for creating and approving the budget and confirmed the sufficient balance of different branches of government in this process. In addition, the study identified weaknesses in the current system of approving and executing the expenditure side of the budget, problems in the amendment procedure and difficulties in processing the necessary allocations during the year. Based on the current experience of other European countries, ideas were proposed to correct the identified problems and improve the budget system – both at the stage of formation and at the stage of control over the actual distribution of expenditures. In particular, potential reforms included the creation of documents based on medium-term timeframes, automation of the system of reallocation of funds during the financial year, and steps to improve communication between the government and civil society. The practical significance of the study lies in the creation of a potential reform programme that may be of interest to the Cabinet of Ministers of Latvia and the Budget Committee of the Saeima

Keywords: Financing programme; allocations; expenditure planning; European experience; fiscal policy

Introduction

Against the backdrop of the aggressive war of aggression that is currently taking place not far from the borders of the Republic of Latvia, the issue of closer European integration of the country is more relevant than ever. The unification of the state budget planning and execution processes in line with the European Union (EU) standards is an essential component of the formation of a common European economic front.

The structure of the state budget and approaches to its formation have already been analysed in articles by leading Latvian and foreign scholars. For example, I. Reinholde (2022), assessing economic and social changes over the 30 years of Latvia's independence, states that the transformation process was complex, as political, economic and administrative reforms were carried out simultaneously, which required significant coordination and management efforts. Nevertheless, the country managed to overcome the post-Soviet bureaucracy and secure a worthy and full-fledged place in both the EU and North Atlantic Treaty Organization (NATO). It was the timely adaptation of budgeting processes to economic and military standards that ensured the Republic of Latvia's relative safety from the aggressor's actions in the early 2020s. The impact of the former occupation on state budgeting was also considered by American experts. N. Ermasova *et al.* (2021) believed that the legacy of Soviet planning traditions is still rooted in the political elites of former Soviet countries. The authors' analysis showed that in some places, budget outcomes are still shaped by the principles of public administration that have remained since the Soviet era.

Speaking about national budgets, it is important not to ignore the issue of local budgeting, in particular, of cities (Pashaeva *et al.*, 2020). Having considered the financing of cities as a tool for their sustainability, F. Oprea and L. Cojocariu (2023), using a comparative approach, have shown that fiscal variables should be considered as key in times of crisis. As the pandemic experience has shown, local government revenues are largely affected by social stresses, with development expenditures being sequestered first. M. Andžāns (2021) devoted his study to the military expenditures of the Republic's budget as a guarantee of

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security. According to the author, Latvia's membership in the so-called "2% Club", which includes countries that budget at least 2% of gross domestic product (GDP) for defence spending within NATO, helps to preserve its sovereignty.

The importance of another strategic budget item, education, was studied by a group of Riga-based researchers led by J. Titko *et al.* (2021). Applying the social return on investment methodology, the authors proved that the existing budget expenditures for the development of intellectual capital in Latvia have delayed but powerful financial and non-financial effects, the beneficiaries of which are not only individual sectors of the economy but also the country as a whole. Certain shortcomings in the formation of the social component of the state budget were emphasized by Z. Tsaurkubule (2021), who drew attention to a certain contradiction between the growth of economic development in Latvia and the standard of living of its citizens. Having analysed the problems of poverty and social inequality in the country using various methods, the author concluded that it is necessary to include more social expenditures in the budget in order to reduce the economic stratification of society.

Some priorities identified by the relevant ministries themselves require regular budget reallocations. As K. Ketners (2022) affirmed in his study, there is an objective need to improve the procedure for reviewing annual expenditures to ensure the flow of funds not only within line ministries but also between different sectors. The COVID-19 coronavirus pandemic has become a kind of stress test for the stress resistance of the entire public administration system in Latvia in general and the elasticity of the Republic's budgeting principles in particular (Çera, 2022). As noted by E. Vitols and S. Jekabsone (2021), despite the objective growth of public debt, the temporary stupor of the economy caused by quarantine restrictions did not lead to negative structural changes, and the state budget deficit did not exceed 2.2% of GDP. This has once again confirmed the hypothesis that Latvia's budget reforms are on the right track.

However, despite several decades of positive changes, the principles of budgeting in Latvia require further improvement. The purpose of this study is to provide recommendations for improving state budget planning and its thorough implementation, taking into account the strengthening of reporting and legal aspects.

Materials and methods

In the process of conducting the study, such methods as statistical analysis and analysis of data on budget management methods were used. The comparison method was also used to compare the expenditure plan for the annual budgets from 2019 to 2023 with the level of their actual implementation, and the literature review method identified a number of sources by foreign authors that also studied the experience of budget reforms in other European countries. In addition, the comparative analysis was used to study the basic plan of budget expenditures and its implementation by economic classification codes in the period from 2019 to 2023.

Within the framework of the theoretical study, the amendments to the Law "On Budget and Financial Management" (2003) were evaluated and the process of improving treasury accounting, budget execution, as well as making these processes transparent by identifying the actual financial position of central government agencies in Latvia was studied by means of analysis. In addition, using the method of retrospective analysis, the paper analyses key events in the economic and budgetary sectors of the Republic of Latvia over the thirty years of independence. In particular, the impact on the state's budgeting of joining the EU, NATO, the Organization for Economic Co-operation and Development (OECD) was studied. The materials used for this study included, in addition to the above, the Law "On Budget and Financial Management" (2003), which contains fiscal conditions, the procedure for approving the medium-term framework budget for three years, the historical context of the Saeima and the Cabinet of Ministers' participation in administrative and economic functions, data on foreign subsidies to the country's budget, and the Constitution of the Republic of Latvia (1922).

Separately, the conditions for the emergence of the appropriation procedure in 2009 were analysed as a system of the Saeima-approved permission to use funds for specific purposes and budget items. In particular, the allocations in the budget programmes of the ministries in such areas as wages and salaries, goods and services, subsidies and grants, interest expenses, accumulation of fixed assets, social benefits and payments, transfers of current expenditures, and transfers of capital expenditures were studied. The structural method was also used to study the breakdown of state budget items into programmes and subprogrammes, which are divided into about 1,100 classification codes that show expenditures at a detailed level. As part of the study of the appropriation procedure, the number of amendment orders issued by the Minister of Finance in the period from 2019 to 2023 and the impact of the COVID-19 coronavirus pandemic and subsequent quarantine restrictions on these statistics were also compared using statistical analysis. The modelling method was used to build a hierarchical model for the Annual Budget Law in the format of a flowchart, which schematically depicts the links and levels of subordination between programmes and subprogrammes of individual budget areas.

Results

Throughout the years of its renewed independence, the Republic of Latvia has been constantly improving its budget legislation in order to respond to current challenges in a timely manner and to comply with the legislative framework of the EU. Immediately after the liquidation of the Union of Soviet Socialist Republics occupation authorities, Latvia inherited a traditional approach to budgeting based on the outdated principles of cash flow and expenditure. A systematic approach to new budget management was initiated by the adoption of the Budget and Financial Management Act by the Saeima in 1994, which remains in force today, albeit with annual amendments. At the same time, Latvia has been trying to adopt the experience of leading European countries in financial management and adapt its own legislation to the new standards as soon as possible.

Although a new system of programme budgeting and performance indicators was introduced in 1997 to ensure budget transparency, this reform did not solve most of the professional problems, as programmes were created according to administrative allocations and investments in specific institutions and did not outline the goals and results to be achieved. Despite being relatively more structured and transparent, these innovations did not guarantee compliance with the key principle of budgeting, which is to accurately declare the purposes for which taxpayers' money is spent. A

significant part of the difficulties in structuring programmes at that time was the lack of an overall picture of the planning system in local administrations and the lack of connection between local initiatives and national budget planning. There was also a minimal understanding of how the policies of individual sectors and relevant ministries should be defined; how they should communicate within joint projects; which regulations to use; how to distribute responsibilities; and how to secure adequate funding for the successful implementation of such programmes.

In order to address these fundamental issues, several innovations were introduced in the planning of the 2000 state budget, which allowed for more accurate accounting of financial assistance provided by the EU and made the budget more transparent. In particular, Article 1 of the Law of the Republic of Latvia No. 2013/36.1 (2003) introduced a separate term for long-term commitments of state and external financial assistance planned for several years ahead. In line with this innovation, a pilot project to link the institutional strategy of some ministries to budget programmes was launched in 2003. Since the early 2000s, Latvia has introduced another fundamental innovation – medium-term budget planning (Article 16), which declares available resources for three years and ensures their use in accordance with the priorities set by the government.

It is noteworthy that while in 2016-2017, the priorities of control over budget expenditures were the assessment and analysis of the functional sectors of healthcare and education, in 2018-2020, the main areas of focus were the improvement of the efficiency of budget processes and the review of the organization of information and communication technologies in public institutions (Lebedeva *et al.*, 2023). In general, as of 2024, the institutional and legislative framework for state budgeting and public financial management in Latvia is largely in line with the standards and principles of the OECD (2015). As for the procedure of creating and adopting the state budget, according to Article 66 of the Constitution of the Republic of Latvia (1922), the Cabinet of Ministers annually prepares its plan in the format of a draft law and submits it to the Saeima for approval by 15 October, and at the end of the financial year the Cabinet of Ministers also sends a report on actual expenditures to the Parliament. If the Saeima adopts decisions on expenditures that were not provided for in the budget, the Treasury allocates additional funds to cover them. This mechanism separates the powers of the executive and legislative branches and prevents abuse.

In early 2013, the Saeima adopted the "Fiscal Discipline Law" (2013), which was intended to establish the principles of correlation of the annual budget with medium-term three-year plans and to declare fiscal rules and exceptions to them. However, as it soon became apparent, many of the provisions of this law were largely formal and had nothing to do with the actual implementation of fiscal discipline. Thus, over the next decade, the document underwent significant amendments. In addition, the procedure of budget allocations – i.e., Saeima-approved permits for state institutions to use funds for specific purposes – was created, formalized and implemented – Article 26 of the Law of the Republic of Latvia No. 2013/36.1 (2003). This elasticity in the approach to expenditure has had a positive impact on the development of many public institutions in Latvia, as until then, adjustments to the annual budget could only be made by way of amendments, which made the process very complex and slow. The implementation of the budget appropriations procedure has radically changed this approach and proved to be effective. The difference between the actual execution of the state budget and the baseline indicators and its dynamics over the past few years are shown in Figure 1.

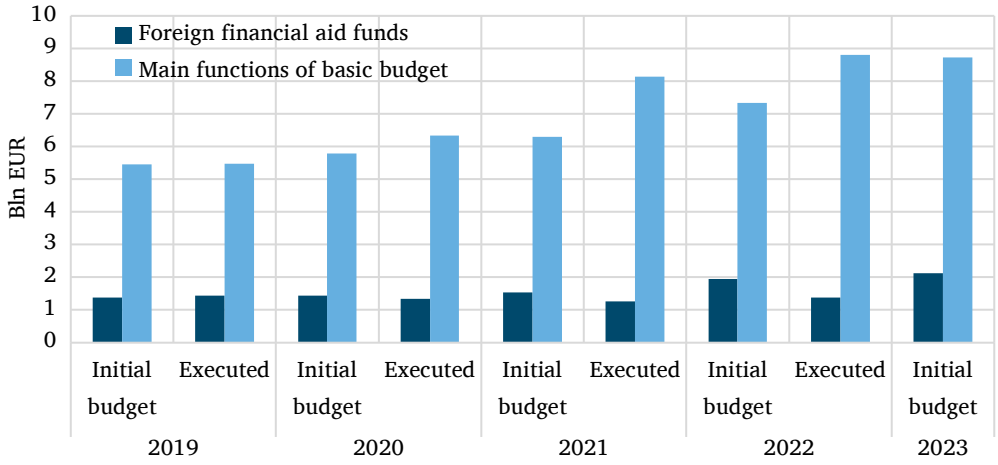

Figure 1. Budget expenditure plan and its actual implementation by year
Source: developed by the author according to the portal Treasury of the Republic of Latvian (2023)

As can be seen from the diagram, the implemented possibility of changes during the fiscal year adds the necessary elasticity and variability to the economy. According to the Ministry of Finance (2023) of Latvia, there were 199 orders of the Minister of Finance amending the appropriations in 2019, 389 in 2020, 665 in 2021, 650 in 2022, and 184 in the first eight months of 2023. Many of the allocations in 2020-2021 were related to the COVID-19 pandemic and subsequent quarantine restrictions, which led to a number of fundamental operational changes in the budgets of these years. At the same time, Figure 1 shows that the size of the Latvian state budget has been growing almost linearly in recent years, while the share of foreign aid in the total amount has been decreasing. Accordingly, the state's dependence on external subsidies is also gradually decreasing.

For a more complete understanding of these processes, it is worth paying attention not only to the division of sources of budget revenues by the principle of external/domestic, but also to consider the issue of budget expenditures in the context of economic classification codes. An overly detailed classification of mandatory appropriations contradicts the original idea of the procedure and hinders the flexible use of resources. However, although this excessive precision leads to growing dissatisfaction among public managers, it allows for greater control over the reallocation of funds. Budget planning and execution in eight key areas is shown in Figure 2.

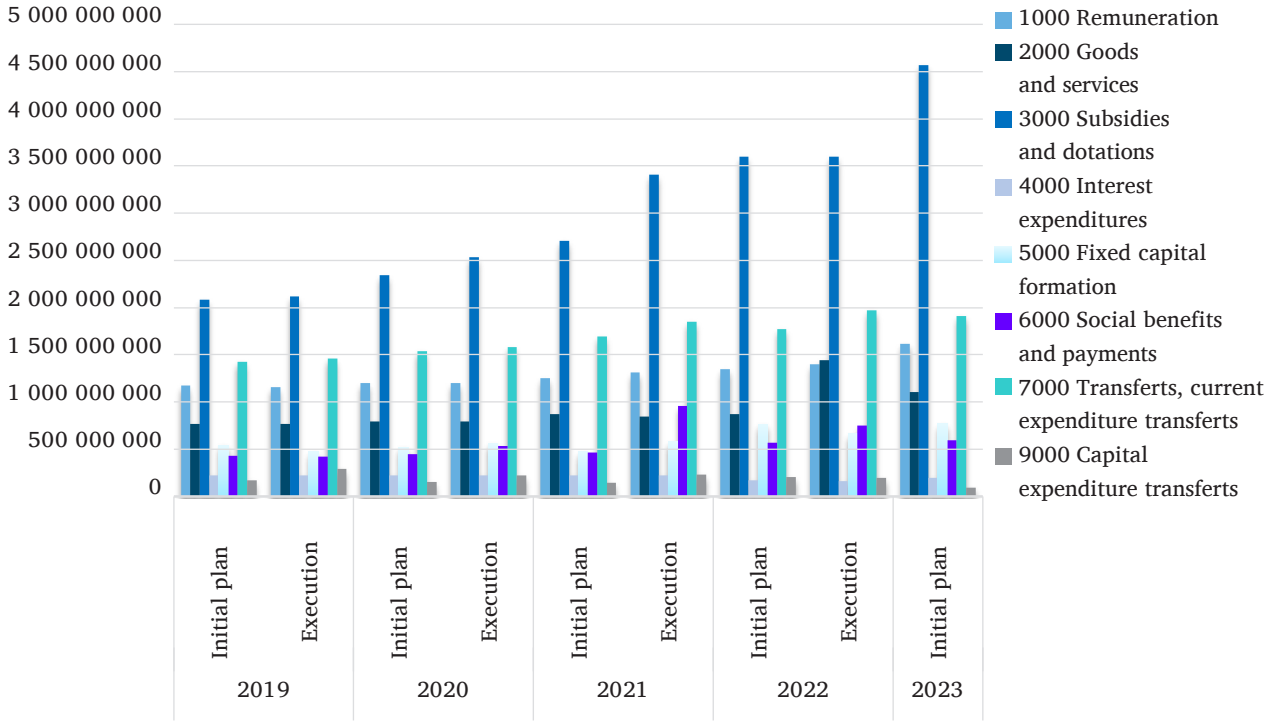

Figure 2. The basic plan of budget expenditures and its implementation according to economic classification codes
Source: developed by the author according to the portal Treasury of the Republic of Latvia (2023)

As shown in the graph above, changes in subsidies and grants in 2023 reflect an increase in European funds and other investments in the commercial sector of the economy and various projects. Changes in social payments in 2021, in turn, reflected subsidies to individuals due to the impact of the COVID-19 pandemic. All of this shows that the system of detailed line-item budgeting is quite burdensome for line ministries and the Minister of Finance personally, who approves changes in allocations. At the same time, the link between the resources provided to budgetary institutions and the results may be lost without additional changes to the annual budget law.

In order to resolve this contradiction, reduce the administrative burden and increase the efficiency of the system, some reform of the allocation procedure is needed. In particular, this could be done by introducing a mechanism for automatically balancing the budget throughout the year, abandoning the current practice of "manual management". Increasing the rights of line ministers and other budget units and their "budgetary flexibility" also requires strengthening the monitoring of budgetary efficiency. One of the leading solutions is annual expenditure reviews, which are carried out as part of the budget planning process. Latvia has made considerable efforts to improve its tools and processes for prioritizing resources and allocative efficiency and launched an annual expenditure review process in 2016, with the intention of improving policy effectiveness and aligning spending with government priorities (Annual State Budget..., 2016). However, in addition to the measures taken, regular performance evaluation, i.e. an analysis of the ratio of resources spent to results achieved, is also needed.

Among other urgent innovations that could be included in the new budget reform, the current article-by-article approval of the document by the Saeima should be replaced by a higher overall level of approval. In this case, it would be more appropriate for the state to use the principles of financing individual institutions and budget units, to limit the use of individual indicators and, instead, to encourage greater focus on productivity by employees. The human resource freed from unnecessary painstaking work with uninformative indicators should be involved in analytical work. As for the budget savings, the Ministry of Finance should become the arbiter of their assessment, with the responsibility to make sure that such savings are real and not just a simple transfer of expenses to the next year. In addition, the proposed reform will not allow financing excessive staffing costs, salaries, and bonuses. In general, the hierarchy of different programmes and sub-programmes, which should be approved by the relevant law, is shown in Figure 3.

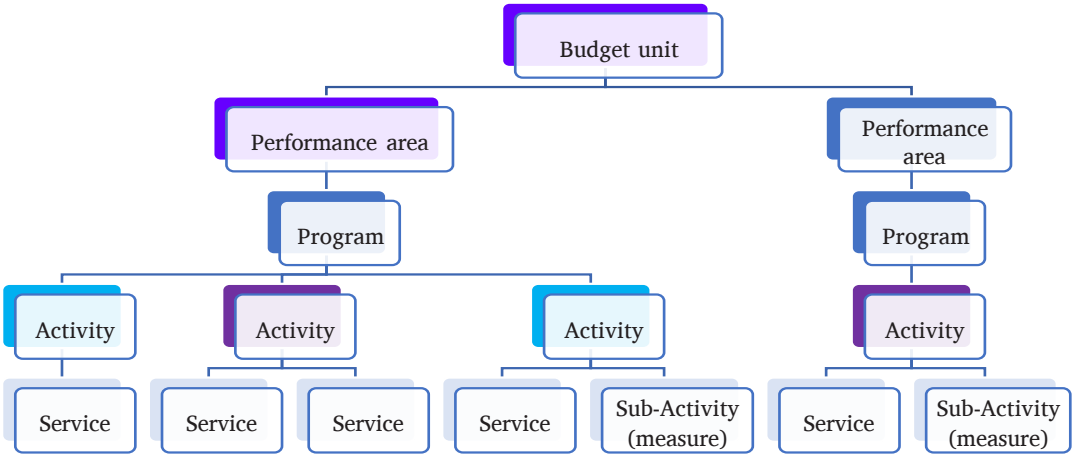

Figure 3. Proposed hierarchy of budget programs

Source: developed by the author

The reform of budget planning should provide for a final transition from the traditional line-item budgeting system to one based on results achieved through the use of public funds. To this end, it is crucial to strengthen the legal framework governing budgeting. Improvements can be achieved by adopting an organic budget law that clearly defines the roles and responsibilities of the various participants in the budget process, including the President of the Republic, the executive, the Saeima, budget units and the Ministry of Finance of Latvia. The law should also establish clear guidelines for the preparation, execution and reporting of expenditures, strengthening the role of line ministers in defining target results and the resources needed to achieve them. The programme of actions and measures should be prepared for a three-year period, which is already common in Latvian politics. To ensure greater autonomy of line ministries, each minister should personally approve the professional budget programme and control the allocation of resources in accordance with the planned objectives in his/her department. The resources of such programme policy should be consistent with medium-term budget planning and current annual budget expenditures. In the event that additional resources are requested during the approval of the annual budget, the performance and quality indicators in the area that generated the request should be reviewed.

Another aspect of the proposed reforms is to improve the planning skills of those in charge. The Ministry of Finance should be given more powers and autonomy to conduct technical analysis and provide recommendations on the allocation of budget funds. These changes will require reducing the influence of politics on the budget process and ensuring that decisions are based on sound economic and fiscal principles rather than on short-term opportunism. The key to such "economy-centricity" should be a demonstrable increase in the autonomy of the Ministry of Finance to reallocate items during the budget year. In addition, more attention should be paid to the link between programme documents and available budget resources to avoid the influence of the gradual budgeting tradition. In their strategies, ministries and other central government agencies should be guided by performance indicators for the use of budget resources available in the medium term.

To increase transparency, it is also crucial to ensure that communities have access to reports on budget execution. Ministries and central government agencies should be instructed to provide explanations for any deviations in the values of prepared and planned performance indicators and to report them to the relevant parliamentary committee and to the public. A functioning public feedback system in the budgeting system will ensure that rejections of irrational requests are properly justified and that corrective actions can be taken in a timely manner if necessary. Thus, in order to solve the current problems of budgeting in the Republic of Latvia and finally get rid of the remnants of the outdated traditional system, it is necessary to promptly introduce a modern approach with a special emphasis on performance-based budgeting, modernization of the allocation system, and a transparent performance evaluation system.

Discussion

In today's rapidly changing world, it is important to abandon outdated traditional habits in a timely manner and opt for modern and effective innovations. This applies, not least, to public administration and economic approaches, as this study has clearly demonstrated. The budgeting of the Republic of Latvia has almost moved away from outdated principles and, in line with the European trend, focuses on achieving certain goals rather than processes. Examples of structuring in budget programmes have been repeatedly noted in the global scientific literature.

For example, M. Foglia *et al.* (2021) proved in their article that budget execution efficiency and reduction of administrative burden can be achieved by introducing a structured regime of automatic levelling of indicators throughout the year. As noted above, the appropriation procedure introduced in Latvia, which was intended to add some elasticity to the budgeting process, also contributes to the levelling of indicators. In addition, the authors developed a re-hedging strategy by analysing finite correlations, which demonstrated the link between multifactor strategies and macroeconomic variables.

Another group of researchers, A. Srithongrung *et al.* (2021), studying public capital management and the budget process, concluded that traditional methods were based solely on results. This approach, which is based on the idea of rational spending in terms of economy, efficiency and effectiveness, has already lost its relevance. Instead, as the results of this paper have shown, a more promising policy is control policy, which, on the contrary, approaches the relationship between resources and goals from the point of view of the alleged social expediency.

As noted by L. Bartocci *et al.* (2023), in the public sector, the practice of participatory budgeting has been gaining increasing recognition among scholars, practitioners, and policymakers in recent years. In some countries, participatory budgeting can already be described as a budget practice based on the active participation of citizens in budget decision-making in order to influence the allocation of resources. The authors place a special emphasis on mechanisms of participation and public influence, in particular, through social media forums and electronic voting. The topic of budgeting transparency and the need for citizens to have access to relevant materials at the planning stage was also mentioned in this study. Given the availability of modern technological solutions, the impact of the community on the discussion of local or national budgets using smartphones is quite real (Lemishovska, 2023).

Performance management, public budgeting and accounting in emerging economies are also the main topics of the study by J. van Helden *et al.* (2021). The authors analysed budget reforms in a number of countries and noted that managers do not always manage to achieve the desired impact on the efficiency of spending and reporting. In most cases, this is due to the local context, which usually includes political instability, poor governance, and a lack of social lifts. In line with the experience of the Republic of Latvia, described above, it can be stated that any reform makes sense only when both society and the governing circuit are ready for it.

F. Citro *et al.* (2021) focused on the relationship between budget transparency and political factors. As a result, it was proved that both the characteristics of individual governments and the characteristics of electoral systems in general directly affect the level of budget transparency. Accordingly, using an international comparative approach, it is possible to predict the degree of transparency of the budgets formed depending on the political system in the country. Returning to the retrospective of budget reforms in Latvia, which was presented above, it can also be stated that with the increasing separation from the former occupation authorities and the formation of an independent policy, economic factors are only improving.

The crucial role of communication in the work of the modern public administration system were noted by S. Mauro *et al.* (2021). Their analysis demonstrated that the mismatch of values and goals between actors and a false preliminary assessment of the actual possibilities of feedback threaten the successful implementation of performance-based budgeting reform. In this case, even the existence of a formally compatible organization of actors excludes the ability of the participants to bring the budgetary or any other state system to the desired changes. In further reforming the budget system in Latvia, these risks should be taken into account and participants who do not share modern European values should be excluded from decision-making.

The COVID-19 pandemic and its impact on budgetary indicators were the subject of a study by K. Dzigbede *et al.* (2023). In the context of the coronavirus crisis and subsequent quarantine restrictions, the authors examined the extent to which the effectiveness of national budgetary financial management systems reduce the tax burden and contribute to economic recovery. The elasticity of budgeting principles was also mentioned in this paper in connection with COVID-19, as the unpredictable impact of the pandemic on the economy forced the Latvian government to make a number of fundamental budgetary changes, which were implemented through appropriations.

The natural budget cuts after the pandemic and the future of economic processes were also discussed by A. Kentikelenis and T. Stubbs (2021), who suggested that the consequences of the crisis should not be budget cuts, but a redistribution of finances towards investment in employment and human capital formation. Accordingly, a partial abandonment of austerity in the short term will lead to an increase in capitalization in the future, and well-thought-out budget reforms should facilitate this flow of resources. In this context, the Republic of Latvia is taking a responsible stance and ensuring that investments in both human capital and sustainable development goals are growing (Nakipova *et al.*, 2023).

Another study on the balance between austerity and budget execution was conducted by R. Raudla and J. Douglas (2022). They tested the theory that a period of crisis and austerity provokes changes in budget execution in one of two key directions – either towards greater control or greater flexibility. As a result, the authors, based on the experience of budgetary institutions in Portugal and Austria, have shown that fiscal crises and austerity tend to lead to increased government control and loss of flexibility in budget execution. At this stage, it is very important for Latvia to strike this balance – and not to allow the government to return to command-and-control practices in implementing budget reforms, even in the face of possible crises.

A. Jethon and C. Reichard (2022), in turn, have demonstrated on the example of German municipal budgets that due to the large volume and detail of documents, the speed of their processing and performance evaluation suffers. A similar observation about unnecessary painstaking work with numerous insignificant indicators, but in relation to Latvian realities, was formulated in this paper. The authors of the German study conclude that municipal politicians perceive information on budget execution as not very useful, as it does not focus sufficiently on results and does not help them in their local political struggle.

The Republic of Latvia, which regained its independence only three decades ago, should take into account the experience of the "Old Europe" in creating the state budget in order not to repeat their mistakes. G. Dabbicco and G. Mattei (2021), drawing parallels between the budgeting systems of Italy and the United Kingdom, state that despite the principles of new public administration that are common to both countries, there are currently different results of reforms and different approaches to communication between parliaments and society. Further European integration, which remains quite relevant for Latvia, and budget monitoring in the EU countries were discussed by F. Terpan and S. Saurugger (2021). Despite the fact that the crises led to increased regulatory pressure from the EU leadership, its subsequent actions did not always translate into additional obligations for individual

countries. As this study has also observed, even a series of crises in 2020-2023 did not reduce partner investments in the budget of the Republic of Latvia. In general, the global experience underlines the need to reform the budget system in accordance with more modern, result-oriented principles and confirms the correctness of the path chosen by Latvia.

Conclusions

Over the previous decades, the Republic of Latvia has made significant progress in applying the best international practices of budget management, expenditure control and elasticity in the prompt reallocation of funds. The traditional methods of budgeting, which were based on the no longer relevant principles of cash turnover, are a thing of the past.

During the years of independence, Latvia has been actively working to modernize and improve its budget and fiscal legislation, taking into account the challenges and needs of the modern world. Each iteration of the legislation brought the country closer to the balanced economic policy and standards of the EU, increasing its competitiveness and attractiveness for investors. The clear positive dynamics in budget planning and execution reflected in the statistical data demonstrates the effectiveness of the chosen strategies and careful financial management. Even in a changing environment and with reduced financial support from partners, Latvia continues to develop, maintaining its economic and social resilience. The growth of social expenditures in the budget is an important indicator of the state's social responsibility and support for socially oriented programmes aimed at improving the quality of life of citizens.

The study shows that in the future, the state should work to improve financial relations between the state and society, in particular, by improving budget planning, linking programme documents to the medium-term budget framework, and encouraging more realistic planning. The inefficiency of budget execution and the inflexibility of the redistribution system can be eliminated by introducing an automatic system of allocations and increasing the elasticity of line ministries' budgets. Aligning budget requests with the fiscal space and setting limits on medium-term growth of budget expenditures are crucial steps to integrate the country's legislation with the European legal system. In such a system, line ministers would be held accountable for current budget allocations to reduce additional budgetary movements that negatively affect financial management. Improving performance budgeting, introducing savings targets and consensually identifying areas for savings are also important aspects of budget reform.

Thus, the introduction of the necessary legislative amendments to support reforms in the state budget planning process in Latvia is critical. A legal assessment of such initiatives and a roadmap for implementing the relevant legislative changes could be the subject of further research on the current budget reform.

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Conflict of interest

None.

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Розробка потенційної бюджетної реформи для Латвії: перехід від традиційного до сучасного бюджетування

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Анотація. Сучасні зміни в політиці та економіці в усьому світі відбуваються настільки швидко і часто, що застарілі принципи бюджетного планування вже не встигають реагувати на ці виклики. Саме тому розробка ідей щодо модернізації принципів бюджетного планування в Латвійській Республіці є дуже актуальною. Метою даної роботи була розробка рекомендацій щодо змін у підходах до формування державного бюджету. У ході дослідження було використано методи статистичного аналізу, синтезу та структурування. За допомогою методів ретроспективного та порівняльного аналізу вивчалися зміни в бюджетному законодавстві Латвії, що відбулися за три десятиліття відновленої незалежності. Дослідження проаналізувало існуючу процедуру формування та затвердження бюджету і підтвердило достатню збалансованість різних гілок влади в цьому процесі. Крім того, дослідження виявило слабкі місця в існуючій системі затвердження та виконання видаткової частини бюджету, проблеми в процедурі внесення змін та складнощі в оформленні необхідних асигнувань протягом року. На основі актуального досвіду інших європейських країн були запропоновані ідеї щодо виправлення виявлених проблем та вдосконалення бюджетної системи – як на етапі формування, так і на етапі контролю за фактичним розподілом видатків. Зокрема, потенційні реформи включали створення документів на основі середньострокових часових рамок, автоматизацію системи перерозподілу коштів протягом фінансового року, а також кроки, спрямовані на покращення комунікації між урядом та громадянським суспільством. Практичне значення дослідження полягає у створенні потенційної програми реформ, яка може бути цікавою для Кабінету Міністрів Латвії та Бюджетного комітету Саейму

Ключові слова: фінансова програма; асигнування; планування видатків; європейський досвід; фіскальна політика

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European strategy for achieving climate neutrality and analysis of legal instruments for its implementation

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Abstract. Given the intensification of human industrial activity in the twenty-first century, the issue of climate neutrality is becoming increasingly relevant, especially for the European continent, where environmental security is a key element of political interaction. The study aimed to examine the peculiarities of the European policy on climate balance by analysing various initiatives in the context of their implementation results. The main methods used were the statistical method, which assessed quantitative indicators in the field of climate protection in several countries, and the method of system analysis, which was used to consider the key elements of the European policy of environmental protection. The study determined that the problem of climate preservation and neutralisation of the consequences of human industrial activity is the main task for which European countries have modernised and updated the regulatory framework and adapted legal mechanisms and legislative instruments. A rational and balanced approach to the protection of the population – both at the national and regional levels, as well as at the universal level – has been a key component of achieving the sustainable development goals for the next fifty years. Reducing emissions and greenhouse gases, switching to environmentally friendly energy sources, using energy-efficient technologies, and increasing taxes on the use of fossil fuels, according to the European Green Development Strategy, were the main points of achieving

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climate neutrality. Through the prism of analysing various regulations and legislative documents at the level of the European Union (EU), the main positive and negative aspects of their implementation in practice were identified and summarised. In the context of the ongoing Russian-Ukrainian war, the author emphasises the need to update several existing climate strategies to minimise their environmental impact. The results and conclusions of the study can be used as a practical basis for the development and implementation of new climate neutrality and green energy strategies

Keywords: climate neutrality; sustainable development; green transition; European Green Deal; energy efficiency; decarbonisation; green energy

Introduction

Every year, the environmental situation on the planet is becoming more and more threatening: rapid melting of glaciers, thinning of the ozone layer, and extinction of flora and fauna. These and other factors are partly or entirely caused by the destructive activities of humans, who have intensified their industrial and production capacities over the past thirty years. Climate change poses challenges for humanity, and the international community is therefore trying to develop certain strategies and tools, including legal ones, to create a solid foundation for further sustainable development of states. One of them is climate neutrality, which helps transform the negative effects of climate change mitigation measures into positive dynamic economic and social development for all. Climate neutrality is a doctrinal, political, and legal concept developed as a result of the adoption and application of the Paris Agreement and European Union (EU) energy and climate legislation. Since then, the concept has been shaping the global legal and political agenda and defining the main directions of the national legislative process of various countries on the path to sustainable development and the green transition. Since the EU countries are the most active in the process of implementing climate goals, the study of ways to achieve climate neutrality at the level of European states through the introduction of modern regulatory elements and indicators is relevant and timely today. Currently, uncontrolled use of natural resources and neglect of the consequences for nature and the environment is approaching a critical point when it will be extremely difficult to normalise the situation and reduce risks (Sharyi, 2023). As climate crises aggravate due to aggressive human intervention in the third millennium, effective legal work should become a way to resolve conflicting issues and unresolved aspects in the context of achieving climate neutrality.

The problem of updating the main vectors and areas of legal cooperation between EU Member States through the prism of preserving environmental balance and achieving climate neutrality, which has become a key task in the period of rapid geopolitical changes and transformations in the production sector of economic activity, is at the forefront of discussions in the government circles of the world. The resolution of controversial issues and unresolved aspects of social and financial impact on climate protection activities is attracting increased attention from both the authorities and the public (Getman *et al.*, 2021). This issue has become especially relevant during the period of military conflicts on the continent, which have slowed down or stopped many environmental projects and initiatives due to the negative consequences. Therefore, it is crucial to carefully analyse the specifics of the EU's activities through its participation in various environmental programmes, as well as through the implementation of various sectoral strategies and plans in national legislation. Given the varying levels of efficiency and effectiveness of the implementation of legal instruments in several European countries, it is possible to predict that the issue of qualitative analysis of the need to comply with climate policy will remain urgent and important.

According to V. Hutsaliuk (2024), the EU, through the large-scale European Green Deal project, is trying to gain a foothold as a regional and global player both in the minds of its citizens and internationally. However, the author believes that this is rather due to the pursuit of their goals by certain groups in Brussels' power circles. According to V. Bondarenko *et al.* (2023), this can currently only be addressed through the clear implementation of action plans and strategies within the European communities. However, the levers of influence should remain at the level of national legislation, and regional monitoring structures are practically not considered.

The European Green Deal is an effective mechanism for achieving climate neutrality on the continent, which, according to V. Dankevych *et al.* (2021), can minimise the damage caused by global warming and restore natural balance and equilibrium. O. Ivasechko and B. Melnyk (2021) argued that the legal aspects of the green strategy are practical and relevant, although they have several shortcomings, such as inconsistency with some national regulations. However, the impact of this strategy on other continents and regions has not been studied due to the different historical conditions of their development. The need for a regulatory update of Ukrainian legislation and its adaptation to EU law, according to I. Maksymova (2023), is a priority task on the way to the European integration of the state. The author believes that the environmental component of Ukraine's future activities in the Union should become the main strength of Kyiv's strategic planning shortly.

According to A. Hedberg and S. Šipka (2022), the EU faces the need to resolve the issue of climate catastrophe, to come closer to the most successful and most feasible options for saving the natural balance. This can be done, first and foremost, by developing appropriate legal mechanisms and legislative instruments that will define common standards and norms for all member states. At the same time, the authors believed that Brussels' experience and influence would be crucial for solving similar problems on other continents of the planet.

Given the current global trends (military conflicts, humanitarian, and economic crises), the creation of a set political strategy and its consistent implementation, according to I. Perissi and A. Jones (2022), is problematic, especially concerning the environmental aspect of state development. Currently, EU legislative practice is characterised by some heterogeneity and fragmentation due to the intensification of demoralising factors in the region. However, experts predicted that regulation at the level of national governments would have a greater chance of having a positive effect in the context of implementing the components of the European Green Deal.

The study aimed to outline the characteristic features of European countries' policies in the context of maintaining climate neutrality by considering their key elements and components.

Materials and methods

The main methods used in the study were the statistical method, the historical method, the method of comparison and system analysis. The statistical method was used to determine the key quantitative and qualitative indicators of the effectiveness of the implementation of certain European initiatives and plans in the context of maintaining environmental stability and minimising the risks of climate change. The method was also used to examine the dynamics of economic financing in some European and global countries. The historical method was used to examine the stages of development of European policy aimed at climate protection and the formation of common principles, standards, and norms for the use of harmful components in domestic production.

The system analysis was used to identify the key essence of the topic under study – climate balance and environmental neutrality – namely the main basic elements, components of national and international strategies, and common and distinctive features of policies at different levels of responsibility. The method of comparison was used to compare various structural elements of the environmental direction of national strategies in some countries, such as the amount of public funding, investment flows, and tax charges.

To conduct a more detailed study on the peculiarities of the European policy on climate neutrality and to summarise the specific features of several policy initiatives and projects of European countries in the context of reducing harmful gas emissions and transition to renewable energy sources were considered regulatory acts (Resolution of the United Nations General Assembly No. 70/1, 2015), European Climate Law (2021) and Law of Ukraine No. 2697-VIII (2019). Also was analysed European Green Deal Investment Plan (2020). Reports of international organisations were used: official reports of state bodies and non-governmental organisations (European Green Deal, 2021), press release on "A new industrial strategy for a globally competitive, green and digital Europe" (2020). International ratings were also studied (The climate change performance index…, 2023; The climate change performance index…, 2024). Information sources, that was used in the study is: "Recommendations for 2040 targets to reach climate neutrality by 2050" (2024), "Plan to rapidly reduce dependence on Russian fossil fuels and rapidly advance the green transition" (2022) and more. These materials were used to analyse the essence and content of European strategies in the context of combating rapid climate change from the perspective of overcoming the negative effects on the environmental situation on the continent.

Results

Environmental problems at the present stage and the concept of climate neutrality. During the twentieth century, discussions on the relevance of environmental protection and climate neutrality were few and did not have a mass character. Most efforts were focused on finding new energy sources to use for human benefit (Hutsaliuk, 2024). Near the beginning of the twenty-first century, the situation began to change rapidly: the negative effects of uncontrolled use of natural resources and the lack of monitoring of harmful emissions led to a serious deterioration in the environmental situation, which in turn caused a drastic climate change in different regions of the planet: for example, over the past thirty years, the average temperature increase has reached about 1.5°C, and experts predict that this number will double between the 2030s and 2040s, which will be a global catastrophe.

The uncontrolled transformation of the climate situation directly affects the stability of the economic system, the main components of which are agriculture, hydro and thermal power, which are the most climate change-dependent industries (Ivasechko & Melnyk, 2021; Przyborowicz, 2022). Countries are experiencing financial losses due to catastrophic trends in these areas, so governments in most developed countries have stepped up their efforts to address these and similar negative phenomena. However, it is worth noting that on the European continent, the need to fundamentally change the basic approach to addressing environmental issues, climate change and the overall harmonious development of humanity is not because most EU member states are already experiencing the negative effects of environmental damage caused by human activity, but rather due to the realisation that shortly the situation in Europe could become catastrophic and turn into a global crisis, which would then require the involvement of all countries on the continent or even the entire planet.

United Europe gradually started to acknowledge the full extent of the danger and, after assessing the prospects of possible risk, started adapting to the conditions that emerged in the twenty-first century, while adjusting its joint actions in the context of minimising the effects of factors such as global warming due to rapid and uncontrolled climate change, deterioration of air quality due to unregulated industrial and production activities, humanitarian and food crises caused by a dramatic change in natural conditions and, as a result, a significant transformation of the usual agricultural infrastructures and directions in the world's poorest countries. In particular, the number of innovation-oriented enterprises in the EU has rapidly increased, i.e. those whose main aspect of activity is based on the use of exclusively environmentally friendly means and methods of operation (Hedberg & Šipka, 2022). Thus, according to the Boston Consulting Group, the number of innovation-oriented industries in Europe in 2022 was more than 60,000, and in 2023 this figure increased to 90,000. The top positions are held by companies from Germany and Switzerland, which received almost 7,000 patents for inventions in 2023 (Ranked: The most…, 2023).

Environmental projects are financed within the EU at the level of governing bodies in different areas and on an ongoing basis (Fig. 1); the priority areas for investment, as well as the legal mechanisms and legislative instruments that are mandatory, are defined by several regulatory documents, among which the Paris Agreement (2015), the European Climate Act (2021), and sectoral strategies and plans are the most important (Perissi & Jones, 2022; Schlacke *et al.*, 2022). In addition, regulatory and legal regulation of this area is based on the peculiarities and specifics of the national legislation of the EU member states, which, in turn, is formed based on specific circumstances, historical background and the current situation in the context of the dynamics of industrial innovation and digitalisation in specific European countries.

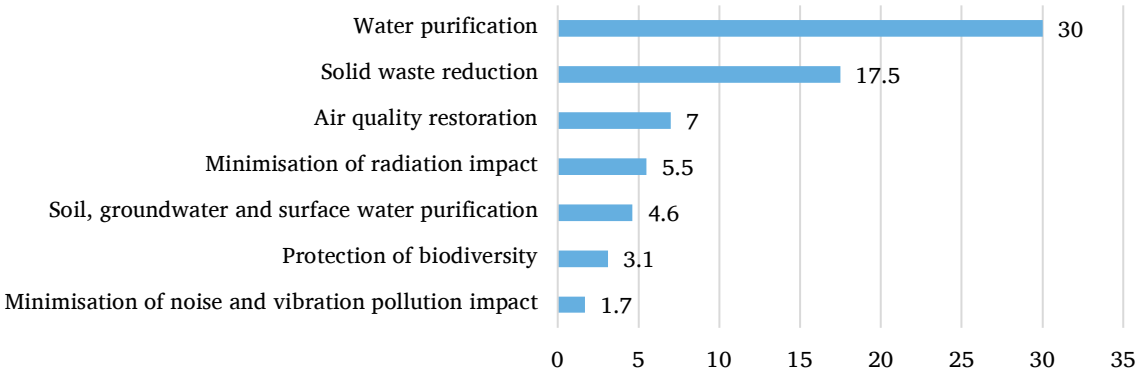

Figure 1. EU investments in environmental protection by sector of implementation in 2022, billion dollars
Source: compiled by the authors based on S. Schlacke *et al.* (2022) and "Environmental protection services: €69 billion invested" (2023)

The priorities and areas of investment are determined separately each year, but sectors such as water purification, minimisation of hazardous household waste, and improvement of air quality and cleanliness always remain on the agenda in the context of the importance and need for support from regulators, national legislation, and central leadership in Brussels.

Climate neutrality is a concept created in response to the threats posed by rapid climate change and refers to a range of measures required to reduce anthropogenic greenhouse gas emissions and increase the capacity to absorb them, which requires a qualitative and rapid economic transition in areas such as energy, industry, infrastructure, transport, land use, agriculture, and forestry. Climate neutrality recreates the conditions under which greenhouse gas emissions and their removal from the atmosphere are well balanced. Climate neutrality does not imply zero emissions, but only their neutralisation using traditional and modern methods.

Although the Paris Agreement (2015), developed under the United Nations Framework Convention on Climate Change, does not mention the concept of climate neutrality in its text, it defines its key elements, such as achieving a global peak in greenhouse gas emissions and a balance between anthropogenic emissions by sources and removals by sinks, as well as the main practical implementation tools, such as nationally determined contributions and long-term low-carbon development strategies. In addition, EU legislation and national laws of different countries have detailed these instruments, introducing various mechanisms to achieve climate neutrality by regulating the use of energy-saving technologies, alternative energy sources, energy efficiency, emissions trading, carbon adjustment of imports, geoengineering, carbon taxes, hydrogen technologies.

The European Union Green Deal policy as part of the environmental strategy. Successful sustainable transformation of modern society is based on strategic planning in all areas of state and social development, compliance with legal mechanisms and strict application of legislative instruments, especially for the European Green Deal programme as part of the EU's climate policy.

On 12 December 2015, the "Paris Agreement" was adopted, which introduced regulatory measures to reduce harmful emissions starting from 2020 (Szyrski, 2023), and on 25 September 2015, Resolution No. 70/1 of the United Nations General Assembly "Transforming our world: The 2030 agenda for sustainable development" (2015). Based on these two documents, the European Green Deal (EGD) plan was developed and presented to the European Parliament on 11 December 2019. The document is a key tool for transforming the Union into an efficient, effective, and sustainable body capable of fully transitioning to a state of neutrality in the use of natural resources and minimising further harmful environmental impact (Table 1). The EGD project plans to transform the economies of the European continent to the level of climate neutrality by 2050, in particular, it is planned to stimulate the development of the system through the comprehensive development of healthcare, medicine, industry, and agriculture through the active use of both innovative technological solutions and strict control over production activities in each EU country (Falduto & Rocha, 2020).

Table 1. A conceptual map of the European Green Deal for the sectors of implementation

Sector (program/ initiative*)	Goals	Expected result	Possible negative outcomes
Climate policy (Targeted climate change plan for the period up to 2030, 2020)	Revision of the Energy Taxation Directive; introduction of a carbon adjustment mechanism for imports; update of the EU Climate Change Adaptation Strategy	Reduction of the level of carbon misuse	Economic losses for some developed countries. Unequal competition in product markets
Energy sector (EU Strategy for the Integration of Energy Systems and Hydrogen, 2020)	Access to energy sources; reduction of greenhouse gas emissions	Energy accessibility infrastructure; smart infrastructure; decarbonisation of the energy sector; decarbonisation of the gas sector; energy taxation (for consumers); new energy market	Unequal competition between countries due to different levels of hydrogen technology development

Table 1, Continued

Sector (program/ initiative*)	Goals	Expected result	Possible negative outcomes
Industry (European Industrial Strategy, 2020)	Development of a circular economy action plan; securing sustainable raw materials; updating sectoral strategies	Waste reduction; implementation of the EU system-wide coordination standard; green digital transformation; rental and repair of control systems	Insufficient legal and regulatory framework for implementing changes
Smart construction (EU Fit for 55 packages, 2021)	Development of a general project regulation; support for energy efficiency; implementation of a renovation initiative	Creation of platforms for stakeholders; direct investment in innovative projects	Lack of a common European strategy at the level of national plans
Mobility (EU Taxonomy for Sustainable Activities, 2020)	Expansion of opportunities for urban mobility; ending fossil fuel subsidies. Introduction of transport pricing; increase in biofuel stocks; air quality control near airports	Transportation digitalisation	The uneven development of the sector at the level of individual EU countries
Food (EU Farm to Table Strategy, 2020)	Introduction of public awareness practices; introduction of security principles in the sector; development of national strategic plans. Reformation of fisheries and agricultural policies	Reduction of food and nutrition shortages	The uneven development of the sector at the level of individual EU countries
Biodiversity (EU Biodiversity Strategy 2030, 2021)	Implementation of a sustainable blue economy; implementation of a biodiversity strategy. Development of "green" European cities (increasing urban biodiversity)	Implementation of the Forest Strategy; expansion of the marine protected area	Lack of political will in some countries; imperfect regulatory framework
Pollution (EU Chemicals Strategy for Sustainable Development Towards a Toxics-Free Environment, 2020)	Restoration of surface waters. Development of Chemical Strategy	Implementation of air quality standards by the World Health Organisation; implementation of the Zero Pollution Action Plan	Discussions on the registration, evaluation, authorisation, and restriction of chemicals

Note: * – refers to one of many key programmes/initiatives

Source: compiled by the authors based on S. Paleari (2022), J. Hereu-Morales *et al.* (2023), X. Suna *et al.* (2023)

The vast majority of countries (193 UN member states) have committed themselves to the 17 strategic goals for sustainable development outlined in the EGD, which has become one of the principles of legal regulation in this area (Huang & Zhai, 2021). Today, the strategic goals serve as the basis for the development of national climate policy strategies in individual countries, the effectiveness of which is a significant factor in restoring ecological balance in the world (Table 2).

Table 2. EU climate change policy effectiveness index in different sectors of production by country in 2022-2023

Country (place in the global ranking in 2023)	Greenhouse gas emissions (%)*	Renewable energy (%)*	Energy consumption (%)*	Climate policy (%)*	Global ranking in 2022
Denmark (4)	31.42	14.76	13.43	20	4
Sweden (5)	34.48	15.96	9.97	12.89	5
Estonia (9)	30.55	11.91	14.88	7.8	32
Norway (10)	26.422	19.35	8.98	9.72	6
Netherlands (13)	24.6	9.69	13.07	14.87	19
Portugal (14)	26.14	8.91	13.73	12.77	16
Finland (15)	29.23	12.89	5.75	13.38	14
Germany (16)	27.36	6.82	13.76	13.17	13
Luxembourg (17)	26.76	10.88	11.68	11.44	18
Malta (18)	28.67	8.82	15.31	7.62	12
Lithuania (21)	25.57	9.56	12.86	11.21	11
Switzerland (22)	26.6	7.73	13.99	10.28	15

Table 2, Continued

Country (place in the global ranking in 2023)	Greenhouse gas emissions (%)*	Renewable energy (%)*	Energy consumption (%)*	Climate policy (%)*	Global ranking in 2022
Spain (23)	25.97	7.38	13.84	11.38	34
Greece (24)	25.3	7.57	15.71	8.93	24
Latvia (25)	21.56	13.07	12.24	9.95	26
Ukraine (-)**	-	-	-	-	20

Note: * – index based on the sum of four indicators whose reforms and activities are aimed at achieving climate neutrality. The index includes the following indices: greenhouse gas emissions (maximum 40% of the total index), renewable energy (maximum 20% of the total index), energy consumption (maximum 20% of the total index), climate policy (maximum 20% of the total index); ** – Ukraine did not participate in the study due to the ongoing Russian-Ukrainian war

Source: compiled by the authors based on The climate change performance index 2022 (2023), The climate change performance index 2023 (2024), I. Pelsa and S. Balina (2022)

In early 2020, immediately after the presentation of the EGD, several EU countries adopted their first climate strategies and plans and began to actively fund research in areas that are close to restoring ecological balance and minimising the effects of climate change, both by governments and private investors. Projects to develop new mechanisms for the transition to safe production have become strategically important priorities on the agenda of the EU Member States. For instance, in the summer of 2020, Germany presented its national hydrogen strategy, the key objective of which is to increase the intensity of hydrogen technologies to accelerate the complete phase-out of coal. In addition, it is planned to build 10 GW capacity for the hydrogen industry by 2030. The Polish government announced its intention to develop 2 GW of electrolysis-based hydrogen production capacity, which was achieved in 2023 (Dankevych *et al.*, 2021). In 2020, the European Commission issued a Communication on a Hydrogen Strategy for a Climate-Neutral Europe with the aim to help to achieve climate neutrality by 2050 and meet the goals of the Paris Agreement. The Strategy is aimed at stimulating investments, increasing demand and expanding production, developing a favourable and supportive infrastructure, promoting research and innovation in this field.

The EGD formed the basis for the development of sectoral documents and initiatives at the EU level, thus outlining the strategic goals and aspirations of all member states. The following new regulatory documents were introduced to support the published strategy: "Just Transition Mechanism" (EGD: Just Transition…, 2021), European "Green Deal Investment Plan" (2020), as well as adapted some sectoral plans, in particular, "European Industrial Strategy" (Making Europe's businesses..., 2020), "Hydrogen Strategy", "Sustainable Development Strategy for the Chemical Industry". In addition, the process of updating the existing European legislation in line with the goals set out in the EGD has begun, and the basic document was the "European Climate Law" (2021), which outlined the main stages and tasks for achieving climate neutrality in Europe by 2050 and formed the legislative norms for further regulatory adaptation.

The EGD introduced a new plan to increase the EU's greenhouse gas emissions reduction target by 2030 and to review and update all relevant climate-related policy instruments. This short-term target, along with the longer-term goal of achieving climate neutrality by 2050, was enshrined in the European Climate Law (2021), making them a legal obligation for the EU and its Member States. The European Climate Law proclaimed the EU's short-term climate goal (to reduce emissions by 55% by 2030) and obliged the Union institutions to set a medium-term goal by 2040 (European Climate Law, 2021). The European Commission was also given additional powers to review any legislative proposals within the EU for compliance with the climate neutrality goal, as well as to assess the compliance of any short- and medium-term goals with this goal. To implement the EGD and the European Climate Act (2021) within the EU, a package of legislative proposals called "Fit for 55" was approved, which aims to make the EU "fit" to meet the short-term climate goal of reducing emissions by 55% by 2030. The proposals are aimed at bringing about the necessary changes in the economy, society, and industry to enable a green transition. The package strengthens some existing pieces of EU legislation and introduces several new legislative initiatives in several areas, such as energy, transport, land use, forestry, and construction. These changes in one way or another relate to the main mechanisms for achieving climate neutrality and provide for effective regulation of the use of energy-saving technologies, alternative energy sources, energy efficiency, emissions trading, carbon adjustment of imports, application of geoengineering methods, introduction of carbon taxes, use of hydrogen technologies.

In early 2020, the COVID-19 coronavirus infection spread rapidly across European countries, significantly slowing down or even stopping many climate projects and initiatives (Abaikyzy *et al.*, 2020). Due to significant financial and social losses, the European Commission called in the summer of 2020 for a one-year pause in the implementation of the "Green Deal" to develop effective mechanisms to counter the effects of the pandemic, including through the prism of the EU's environmental strategy (Bäckstrand, 2022). This resulted in the implementation of such initiatives and programmes as the European Social Fund, CRII, CRII+, REACT-EU. With the help of these projects, the Union has developed several mechanisms to support regional development in the post-pandemic period, accelerate the "green transition", and increase investment in environmental areas to minimise the risks caused by prolonged social and economic isolation (Dupont & Torney, 2021). At the end of 2020, the European Commission's analytical commission published the "Green Recovery Act", which included all the points of the previous document, the European Green Deal (2021), and focused on the task of reducing the use of fossil fuels (Oberthür & von Homeyer, 2022). However, after a series of discussions in EU government circles, the 2020 act was recognised as a copy of the previous EU Green Deal document and concerns were

raised that the funds allocated under the new document could be misused (Hereu-Morales *et al.*, 2023). At present, no such facts have been recorded, and the Union's climate policy is generally functioning harmoniously based on previously adopted regulations (as evidenced by the general recommendations on the 2040 targets for achieving climate neutrality by 2050 adopted in January 2024) (Recommendations for 2040…, 2024). However, it is worth noting that with rapid fluctuations in the political and economic situation in the world, military confrontations and conflicts over social contradictions, the situation regarding the further development and formation of climate neutrality policy in Europe is under some threat. New challenges and complexities in the region require a refocusing of attention to new situations, pushing the issue of maintaining environmental balance to the background.

Considering the overall situation in the field of climate policy in the EU, it is possible to conclude that there are both positive and negative components of this activity. In general, national governments and the central leadership in Brussels are aware of all the risks and act following the requirements and requests. To summarise, there are general practical recommendations for improving the efficiency of decision-making in some sectors of the EU's activities to accelerate the achievement of climate neutrality. First and foremost, it is necessary to fully implement all the provisions of the previously adopted regulations, mainly at the level of individual countries, and to conduct clear monitoring in the context of understanding the scope of work done and the need to reform and update certain areas of the industry. It is also necessary to continue the policy of decarbonising production, using all available sources (wind, water, solar energy), and financially motivating producers to get involved in this business. In addition, it is necessary to conduct active social work in the context of households' transition to environmentally friendly energy sources, such as solar panels, heat pumps. Specific policies on social justice should be introduced through the prism of the possibilities of using the latest tools in the field of environmental restoration: introduce a system of fines for violations, taxation mechanisms for involved entrepreneurs, and preferential tariffs for the most vulnerable segments of the population. Most importantly, it is necessary to maintain effective communication with all stakeholders in this area of policy activity to respond quickly to new difficulties and challenges.

Ukraine and the Climate Neutrality Policy. Given Ukraine's European integration aspirations declared in several regulations and international treaties (primarily in the EU-Ukraine Association Agreement (2014) and in connection with obtaining the status of an EU candidate) and its goal of becoming a member of the Union, environmental policy and preservation of climate balance are among the key goals of the country's sustainable development in the short term (Maksymova, 2023). The legislative instruments for this policy area, defined by the updated regulatory framework, are sufficiently complete and effective. Ukraine regulates its legal activities and fulfils its international environmental obligations following the UN Framework Convention on Climate Change (1992), the Kyoto Protocol (1997), the Paris Agreement (2015), as well as acting within national documents – Law of Ukraine No. 2697-VIII (2019), the Concept of Ukraine's Transition to Green Energy by 2050 (2020). In addition, relevant legislation has been adopted to monitor, report, and verify greenhouse gas emissions.

The main tasks of Ukraine under the above acts are to create an efficient economy in which the principles of decarbonisation and transfer to a green economy are key; transition to energy-saving technologies and energy-efficient systems and mechanisms; achieve a low-carbon level of production; scale up the use of renewable and alternative energy sources; and development of effective tools to overcome climate change (Orfanova, 2023). Following the ratification of the Paris Agreement in 2016, Ukraine submitted its first nationally determined contribution to the Secretariat of the United Nations Framework Convention on Climate Change, under which Ukraine set a goal of not exceeding 60% of 1990 greenhouse gas emissions by 2030. As this goal was not ambitious enough, in 2021 Ukraine's contribution was adjusted so that it now commits to a 65% reduction in greenhouse gas emissions by 2030 compared to 1990 levels and to achieve climate neutrality no later than 2060. By the way, Ukraine became one of the first countries to develop and submit its low-carbon development strategy to the Convention Secretariat (in 2018).

Since the Russian full-scale invasion of Ukraine, many environmental projects and climate initiatives were halted, and several innovative enterprises in the sector were destroyed or ended up in the occupied territories, thus terminating operations (Yefimenko *et al.*, 2023). Therefore, the Government of Ukraine, to minimise the consequences of this catastrophic situation (increased harmful emissions into the atmosphere due to numerous fires, rocket explosions), together with the European Commission, has developed the REPowerEU Recovery Plan, which provides for strengthening energy saving, energy efficiency, environmental monitoring, establishing communication between different industry stakeholders, as well as diversifying energy sources and a complete transition to green energy (REPowerEU: Plan to…, 2022). The plan also envisages that Ukraine will become the main transit route for hydrogen transportation to European countries.

Given the commitment to join the EU, enter the European economic, political and innovation space, and comply with European standards and norms in terms of achieving climate neutrality, Ukraine should consider the following recommendations. In particular, the relevant ministries (primarily the Ministry of Economy and the Ministry of Finance) need to improve communication by developing and implementing a green monitoring system that would facilitate the active dissemination of all relevant information to environmental policy stakeholders, mainly potential investors. European systems (e.g., the World Bank's methodological materials, the German government's guidelines for green implementation) could serve as an example of this development.

The Ministry of Communities, Territories, and Infrastructure Development of Ukraine, in the context of restoring damaged infrastructure in the territories liberated from the occupiers, needs to develop clear roadmaps and plans and implement measures to restore infrastructure. The experience of European countries can be used as an example (the launch of the Flood Relief Fund (Germany), and the Green Climate Fund (UK) (Bondarenko *et al.*, 2023). It is also necessary to attract private investment from national and foreign donors.

Discussion

Studying the formation and development of the EU climate policy in the context of fulfilling the tasks set out in the European Green Deal, which was developed as a practical response to rapid climate change, and environmental degradation and as an effective tool for Europe's transition to a green development path, several conclusions were summarised. The issue of minimising the harmful impact on nature and humans from production and industrial activities is currently an extremely important and relevant aspect of discussions at various levels of government and public debate. Analysing the scientific achievements of specialists related to the topic of this paper – climatologists, economists, sociologists, medical experts, and representatives of other fields – it is possible to state that in recent years, interest in studying ways and means of overcoming the environmental crisis has increased significantly. The demand for such research is currently very high, as society strives to live and develop in a stable environmental situation and a sustainable economic system, which cannot be guaranteed in the face of uncontrolled changes in natural phenomena. Ukrainian scientists focused mainly on policy research in the context of the "green transition" and the creation of an environmentally neutral economic system in Ukraine, following the example of developed EU countries (Danylyshyn & Koval, 2023). Experts from European countries (Poland, Italy, the United Kingdom), as well as from the United States and China, focused their research on identifying priority tasks for achieving climate neutrality through the prism of analysing legal instruments in national innovation systems. In summary, the results and conclusions of scientists support the fact that the situation in the environmental sector is still extremely difficult, and the events of recent years (the outbreak of the COVID-19 coronavirus infection, the Russian-Ukrainian war) have made the situation threatening and explosive, requiring urgent resolution.

This study suggested that the EU should become the main actor and play, if not the main, then at least a decisive role in overcoming the global environmental crisis, namely, in ensuring and accelerating the transition to a more sustainable, "green" transformation of the economy and production. The same idea was previously voiced by A. Hedberg and S. Šipka (2022), emphasising the fact that the Union can do this as a developer of norms and standards for compliance with climate rules and principles, as well as a powerful producer and consumer of environmentally neutral and carbon-independent products with a clean source of origin. The concept of carbon neutrality envisaged by the European Green Deal is emphasised in the Paris Agreement, which became the basis for further transformation of sectoral legislation in the EU. This opinion, which was substantiated in this paper, confirms the conclusions of M.T. Huang and P.M. Zhai (2021) regarding the goals of achieving zero emissions and a carbon-neutral economy based on environmental policy and compliance with European rules and regulations. However, achieving the above goals requires the joint mobilisation of the entire society, which is a complex and practically impossible task in the current environment, according to experts.

The development of long-term strategies, plans, roadmaps, and scenarios for planning and implementing certain tasks in various spheres of life is the only way to achieve the goals set. This statement is also true for environmental policy within the EU, where the functions of monitoring and controlling the level of air, water, and food quality are assigned to the relevant regulatory authorities, which are enshrined in specific regulations. C. Falduto and M. Rocha (2020) share a similar opinion, believing that long-term strategies can significantly influence the short- and medium-term priorities, policies, and investment channels of the Member States, leading to significant cost savings in the long run. To implement the priority goals of the EU's Green Deal, it is necessary to introduce several measures to modernise the existing structure of the industry, this paper analyses the example of updating existing documents after the outbreak of the COVID-19 coronavirus infection. S. Schlacke *et al.* (2022) also have a similar opinion and insist that to achieve the set goals, the system should be reformed exclusively in terms of increased control and monitoring, fines, and increased taxation. The authors did not consider the options of weakening supervision and introducing a system of benefits and incentives approved at the legislative level, due to the low efficiency of such actions.

The study outlined the conditions under which the EU's climate policy has been changing, strengthening, and becoming more institutionalised and centralised. This applies to the most catastrophic events on the planet – wars, global environmental disasters (floods, droughts), food crises (famine), epidemics. S. Oberthür and I. von Homeyer (2022) also considered these factors as driving forces in the process of reforming the political strategies of European countries, not only in terms of environmental issues and climate protection but also for other sectors of the economy. At the same time, experts argued that although the European Green Deal is unique and effective, it is not universal and cannot be fully applied to countries from other regions or continents. A free and legal transition to a sustainable and climate-neutral society is based on the principles of gradual phase-out of fossil energy sources, increased use of carbon-neutral technologies and systems, energy-saving consumption, and environmental management. This thesis was voiced in the presented study and coincides with the proposals of J. Hereu-Morales *et al.* (2023) on conducting a pan-European assessment of the effectiveness of the tasks set out in the European Climate Act, which were previously emphasised in the European Green Deal. However, according to the authors, the practical relevance of the above documents is still not sufficiently substantiated due to the lack of full agreement on certain components.

In the process of studying the topic of climate neutrality on the European continent by analysing the relevant areas and spheres of implementation of this task in the national practices of the EU member states, the following was determined. By reviewing the works of some industry experts, in particular, economists and sociologists, the need to update the available information on the subject matter of this paper was identified in the context of the growing demand for detailed results and conclusions. The main factor that stimulated the development of various green strategies and plans was a significant increase in the overall number of negative trends in the natural environment, directly or indirectly caused by the consequences of human activity. European countries have agreed on the urgency of addressing the climate crisis, but due to different approaches to certain components of this policy area, as well as the multi-level political and economic systems and structures operating in the Union, it is difficult to approach the issue of environmental balance in a joint and organised manner. This also applies to

Ukraine, which, although it had good indicators of achieving climate neutrality in the early 2020s, lost many of its achievements as a result of the Russian invasion. However, despite all the difficulties, the climate neutrality strategy announced following the European Green Deal is the only right solution to establish ecological balance and preserve natural biodiversity on the planet. For a more thorough consideration of the problems of preserving the ecological balance on the planet and guaranteeing climate neutrality on the European continent, it is advisable to analyse the future development and updating of the EU's environmental legislation after the end of the Russian-Ukrainian war.

Conclusions

Considering the peculiarities of the European policy on achieving climate neutrality in the context of the rapid growth of new challenges and threats to global security in the context of climate change due to active human activity, several conclusions have been drawn. The topic of regulatory and legislative regulation of pan-European activities to preserve ecological balance at the beginning of the 21st century is extremely important and relevant in many countries, as evidenced by the development of national sectoral strategies and green transition plans. Certain aspects, such as the outbreak of the COVID-19 coronavirus infection and military actions in the region, have negatively affected the implementation of the European Green Deal, but through joint efforts, EU member states have mobilised their resources and built an updated strategy for the near future. Certain European regulations contain both positive components (e.g., the task of significantly reducing harmful gas emissions, the introduction of innovative standards for carbon-free production) and certain ambiguous elements for some EU members (development of a unified system of fines and sanctions for those states that violate environmental norms and standards, without taking into account national peculiarities, geographical conditions), which makes the process of their implementation quite complex and time-consuming. Ukraine, through the prism of its European integration aspirations, also follows the path of achieving climate balance and reducing harmful emissions into the atmosphere. However, the ongoing Russian-Ukrainian war has negated Ukraine's achievements in this area in recent years and made the goal of a "green transition" much more difficult.

Considering the statistical data in the context of analysing the dynamics of environmental initiatives and launching relevant green projects, the most relevant and widespread programmes are those in the areas of water purification systems, algorithms for reducing solid waste and transition to zero waste production, and computer programmes for air quality restoration. The legal mechanisms and legislative instruments of the European Green Deal form multi-level areas and spheres for which highly specialised sectoral regulations and documents have been developed, such as the European Industrial Strategy for Safe Production, the EU Chemicals Strategy to minimise harmful emissions into the environment.

Further research on expanding the range of legal instruments to achieve climate neutrality in the context of implementing the main objectives of the European Green Deal programme seems quite promising and will be of significant practical importance for many industrial sectors in most countries of the world. This is primarily due to the ever-increasing pace of transformation of the natural balance, namely, the usual climatic conditions, environmental standards, which, in turn, requires the expansion of scientific research to stabilise the situation and solve these problems.

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Conflict of interest

None.

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Анотація. У зв'язку з інтенсифікацією промислової діяльності людини у XXI столітті, питання кліматичної нейтральності стає вкрай важливим, особливо для європейського континенту, для якого екологічна безпека є ключовим елементом політичної взаємодії. Мета полягала у розгляді особливостей європейської політики зі збереження кліматичної рівноваги через призму аналізу різних ініціатив в контексті результатів від їх впровадження. Основними методами були статистичний, за допомогою якого оцінені кількісні показники у сфері збереження клімату у ряді країн світу, та метод системного аналізу, використовуючи який розглянуті ключові елементи європейської політики забезпечення захисту довкілля. З'ясовано, що проблема збереження клімату та нейтралізація наслідків промислової діяльності людини є головним завданням, на вирішення якого європейські країни модернізували та оновлювали нормативну базу, адаптували правові механізми та законодавчі інструменти. Раціональне та зважене ставлення до захисту власного населення – як на національному та регіональному, а також універсальному рівнях – було головною складовою для досягнення цілей сталого розвитку на найближчі п'ятдесят років. Зниження рівня шкідливих викидів та парникових газів, перехід на екологічно безпечні джерела енергії, використання енергоефективних технологій, збільшення податків на застосування викопних копалин, за європейською стратегією "зеленого" розвитку, виступали головними пунктами досягнення кліматичної нейтральності. Через призму аналізу різних нормативних актів та законодавчих документів на рівні Європейського Союзу (ЄС) були виокремлені та підсумовані головні позитивні та негативні аспекти від їх реалізації на практиці. В контексті триваючої нині російсько-української війни акцентовано на необхідності актуалізації та оновлення ряду існуючих кліматичних стратегій з метою мінімізації їх наслідків на природу. Результати та висновки роботи можуть використовуватися в якості практичної бази для розробки та впровадження нових стратегій кліматичної нейтральності та зеленої енергетики

Ключові слова: кліматична нейтральність; сталий розвиток; "зелений перехід"; European Green Deal; енергоефективність; декарбонізація; зелена енергетика

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Current challenges of state and other registration of civil law contracts in the context of reforms and digitalisation

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Abstract. In the context of rapidly changing information space and digital technologies, research on the effectiveness of registration procedures is essential to ensure fairness, protect the interests of citizens and entrepreneurs, and improve the efficiency of public administration. The study aimed to identify the main difficulties arising in the registration of civil law contracts in Kyrgyzstan in the context of modern changes in legislation and the introduction of digital technologies, as well as to develop practical recommendations to improve the registration process. To achieve this purpose, a comprehensive approach was used, including an analysis of the legal framework, a statistical analysis method, and a questionnaire survey. The study results identified several key problems in the system of registration of civil law contracts in Kyrgyzstan. Firstly, the registration process was found to be lengthy, which slows down economic transactions and creates uncertainty for the parties. Secondly, a lack of transparency of procedures is present, which may encourage corrupt practices. The study revealed limited use of digital technologies in the registration of civil law contracts in Kyrgyzstan, which hinders the optimisation and automation of the process. This is related to insufficient integration of databases, outdated systems and insufficient development of information infrastructure, which hinders the effective implementation of modern technologies and slows down the modernisation of the registration system. In addition, solutions to these problems are proposed, which include improving legislation to speed up the registration process, increasing transparency and

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accessibility of information, and actively introducing digital tools such as electronic signatures and online platforms to simplify procedures and reduce administrative barriers. The results of this study can be used to develop and implement effective measures to improve the system of registration of civil law contracts in Kyrgyzstan, which in turn contributes to increasing transparency and accessibility of legal services for citizens and businesses

Keywords: legislation; process efficiency; transparency of procedures; information security; electronic systems; international experience

Introduction

The study of the current problems of registration of civil law contracts in the context of ongoing reforms and digitalisation is an integral part of ensuring legal protection for both citizens and entrepreneurs. An effective system of contract registration contributes to the creation of a transparent legal field, which in turn helps to prevent conflicts and ensure legality in the field of civil law relations. In the context of modern society, where information technology plays a key role in various aspects of life, the need to adapt legal mechanisms to new challenges becomes critical. Optimisation of the contract registration process using digital technologies contributes to increasing the efficiency and accessibility of legal services for citizens and businesses.

Many researchers already addressed the problems of registration of civil law contracts, including in the context of ongoing reforms and digitalisation. Their studies provide a better understanding of the current situation and identify possible solutions to the problems. However, most of them focus on analysing existing problems, while less attention is paid to practical measures to address them and adapt to new conditions. F. Kuluyeva (2023) highlights the main trends of digitalisation in Kyrgyzstan. The author explores the impact of digital technologies on various spheres of life in the country, including the economy, education, healthcare and public administration. The study highlights the significant progress in the development of digital infrastructure and the spread of the Internet, which has helped modernise and improve the accessibility of public services and commercial transactions. However, despite the positive developments, the paper has not addressed some of the challenges related to the registration of civil law contracts in the context of digitalisation. For instance, insufficient legislative regulation in the area of electronic signature and data protection, as well as the lack of a unified digital platform for convenient and secure registration of contracts may create obstacles to the effective functioning of the digital economy and the legal system of Kyrgyzstan (Mentukh & Shevchuk, 2023).

K.R. Useinova *et al.* (2020) analysed the evolution of the concept of civil law contract. The authors examine historical changes in the understanding and legal regulation of civil law contracts, from ancient times to modern times. The study provides an understanding of the main stages in the development of civil law contracts and their significance in the modern legal context. However, the authors do not consider certain problems related to the registration of civil law contracts that may arise in modern practice. For example, the issue of the necessity and effectiveness of digital registration of contracts in the context of modern technological advances has not been addressed. Moreover, aspects related to data protection and electronic signatures in digital registration, which may be critical in today's digital world, have not been addressed. These problems require further study to develop appropriate legal mechanisms and ensure effective registration of civil law contracts in the modern context.

V. Shah *et al.* (2020) explored the potential of blockchain technology in civil registration systems. The authors analysed how blockchain can be used to improve the efficiency, transparency and security of civil registration processes, especially in the context of long-term data preservation and prevention of data manipulation. Despite this, issues related to the legalisation and recognition of digital signatures in the context of blockchain-based contract registration were not addressed, which requires further research to ensure the legality and binding nature of such documents.

R.J. Tuibaev and A.K. Egeshova (2021) studied the problems and ways to improve civil procedure in the Kyrgyz Republic. The authors analysed the main problems and challenges faced by the court system and proposed practical solutions based on the experience of Kyrgyzstan. The study considers the issues of efficiency, accessibility and fairness of civil proceedings, as well as problems related to the registration of civil law contracts in the context of modern digitalisation reforms and their resolution in court. However, aspects of international problems related to online registration and enforcement of civil law contracts have not been considered, which leaves room for further research and development of legal solutions in this area.

N.S. Semenov (2022) investigated the legal problems associated with the establishment of information relations in e-justice in the Kyrgyz Republic. The author analyses the main legal aspects arising in the implementation of e-justice and offers practical recommendations for their solution. The study addresses issues related to the electronic filing of documents, accessibility of electronic legal services, as well as protection of confidentiality and data security in the online environment. At the same time, the study does not consider aspects of the interaction of e-justice with other digital platforms and information systems, which leaves room for further research and development of mechanisms for registering contracts in e-justice.

G. Kuldysheva *et al.* (2021) analysed the development of law in Kyrgyzstan. The authors explored the historical roots and peculiarities of the formation of law in the country, as well as its impact on the modern legal system, including contract law. In addition to evolution and general principles, the study examined key aspects of the development of contract law in the context of modern reforms. However, specific problems of the registration and legal regulation of contracts involving parties based on custom and tradition were not considered.

Given the gaps in previous studies, the study aimed to analyse the current problems related to the registration of civil law contracts in the current context of changes to develop strategies to address them. The main objectives of the study were to analyse the current reforms in the area of state and other contract registration and identify their impact on existing registration practices; to analyse the pros and cons of digitalisation in the process of contract registration and to identify possible ways to improve this process.

Materials and methods

To achieve this goal, a set of methods was used. The statistical method was used to analyse the current reforms in the field of contract registration, as well as to determine their impact on registration practice. The analysis of the statistical data of the National Statistical Committee of the Kyrgyz Republic (2023) included the systematisation of information on the increase in the number of registered civil law contracts on the example of leasing agreements. After systematisation of the data, the data were analysed to identify changes in the dynamics of registration. The analysis also examined information on the time and procedures of registration, such as the time required to complete the process, the documentation required, and the regulations and procedures adopted. This provided an assessment of the speed and accessibility of registration services before and after the reform. The results of the statistical data analysis were used to assess the effectiveness of the reform and to identify its impact on the contract registration process. In particular, the indicators before and after the reform were compared, as well as compared with data on registration practices in other countries, namely the USA and Germany. This concluded on the impact of the reform on the speed, efficiency and accessibility of registration services for participants in civil law relations.

To better understand the positive and negative effects of digitalisation in the contract registration process, a questionnaire survey was conducted between 15.01.2024 and 15.02.2024. Questionnaires were developed for the questionnaire survey, considering a wide range of factors affecting the topic. The questions were structured to cover various aspects, from assessing the usability of digital registration systems to identifying problems in their functioning (Table 1). Survey sample of participants for the questionnaire, within the framework of this study, was selected to cover a variety of age categories: 52 representatives of young people 18-25 years old, 72 adults 26-60 years old and the elderly (over 60 years old) – 26 people. The inclusion of representatives from different age groups allowed the views of a diverse population to be considered. Professional diversity was also a key criterion, so the sample included representatives of business (41 people), civil servants (14 people), lawyers (32 people), and ordinary citizens (63 people). The questionnaire survey was organised at the Institute of Information and Computational Technologies, where all the necessary conditions for conducting the research were provided. The total number of respondents was 150, each of whom was informed in advance of the objectives of the study, as well as of the obligation to ensure anonymity and confidentiality of the data provided, following the principles of research ethics enshrined in the Committee on Publication Ethics (2000). This approach guaranteed representative data and high reliability of the study results. The results obtained made it possible to develop recommendations for optimising the digital registration system, considering the needs and expectations of the various actors involved.

Table 1. Questionnaire

1. Please state your age.	Younger than 18 years
	18-25
	26-40
	41-60
	41-60
2. What is your professional status?	Entrepreneur / businessman
	Civil servant
	Lawyer / legal officer
	Regular citizen
	Student
	Other (state)
3. What digital contract recording systems have you used? (several options can be selected)	State service portal
	Electronic services of banks
	Specialised online platforms
	Other (state)
4. What is your overall experience with digital contract registration systems?	Very low
	Low
	Average
	High
	Very high
5. What advantages do you see in using digital contract registration systems? (several options can be selected)	Increased registration speed
	Reduced paperwork
	Improved service accessibility
	Remote document access
	Improving data security
	Easier and more convenient registration process
6. What disadvantages or challenges do you experience when using digital contract registration systems? (several options can be selected)	Technical failures and system access problems
	Insufficient reliability and security of data
	Difficulties in mastering new digital tools
	Limited opportunities for interaction with state authorities
	Inconvenient for use on mobile devices
	Incomplete automation of the process, requiring additional manual labour
7. What are your expectations from new technologies in the field of contract registration?	
8. What specific suggestions for improving the contract registration process do you have to offer?	

Source: developed by the authors

The study analysed documents that provide strategic guidelines and priorities for the development of digital technologies in the country, as well as information on plans and programmes aimed at digital transformation and modernisation of public administration: Regulation of the Government of the Kyrgyz Republic No. 170-p (2020); The concept of digital transformation "Digital Kyrgyzstan" – 2019-2023 (Ministry of Digital Development of the Kyrgyz Republic, 2019); as well as Decree of the President of the Kyrgyz Republic No. 64 "On Urgent Measures to Intensify the Introduction of Digital Technologies in Public Administration of the Kyrgyz Republic" (2020). Thus, this integrated research approach has provided a more complete picture of the current state and prospects for the development of contract registration in the context of digitalisation.

Results

In the context of ongoing reforms, such as the simplification of registration procedures and the digitalisation of government services, it is important to be aware of both the positive and negative aspects of these changes. As the registration of contracts is a fundamental element for businesses and citizens in securing their rights and obligations, research into such an important aspect as digitalisation is critical to ensure the effective functioning of the legal system and to stimulate economic development.

Regulation of the Government of the Kyrgyz Republic No. 170-p (2020), The concept of digital transformation "Digital Kyrgyzstan" – 2019-2023 (Ministry of Digital Development…, 2019), as well as Decree of the President of the Kyrgyz Republic No. 64 (2020) are key strategic documents aimed at improving digital infrastructure and promoting digital transformation in the country. They outline priority areas for the development of digital technologies define specific steps to improve the efficiency of public administration and provide citizens and businesses with convenient and accessible digital services. The implementation of these documents is expected to result in significant improvements in the speed and accessibility of registration services in Kyrgyzstan.

The strategic goals of the "Digital Kyrgyzstan" concept of digital transformation – 2019-2023 (Ministry of Digital Development…, 2019), according to paragraph 3.2, aim to create new opportunities for the population through the development of digital skills, providing quality digital services and improving the efficiency of public administration, as well as ensuring economic growth through the digital transformation of priority sectors of the economy. The digitalisation of contract registration involves the modernisation of educational standards and the higher education system to develop the necessary skills and knowledge, cooperation between academic and business structures to develop innovative educational programmes, and increasing the openness, transparency and efficiency of the public administration system through digital transformation. This also includes the introduction of digital tools for interaction between law enforcement agencies and the judicial branch of government with citizens and business structures, which contributes to fighting corruption and ensuring the rule of law (Ministry of Digital Development…, 2019). Such measures to improve the infrastructure and efficiency of public services, as well as the development of economic clusters through digital technologies, will contribute to improving the speed and accessibility of registration services, including the registration of contracts, in the country. Also, analysing paragraph 4.2 of the Concept, it should be noted that to digitalise the registration of contracts, legal barriers are expected to be overcome through the development of relevant regulations (Ministry of Digital Development…, 2019). This includes the protection of intellectual property, the creation of flexible mechanisms for piloting innovations, and support for small and medium-sized businesses in this area.

Regulation of the Government of the Kyrgyz Republic No. 170-p (2020) is a strategic action plan to promote digital transformation in the country. According to paragraphs 45-46, the Regulation on the information system "Electronic Notary" and the systems "Electronic Registration of Legal Entities" were developed and approved. The systems were then introduced in pilot regions of the country and then extended to all regions. These steps make it possible to automate the processes of registering the activities of legal entities, branches and representative offices. The introduction of electronic registration systems helps simplify and speed up processes, increase accessibility and transparency, and reduce bureaucratic barriers for businesses, thus contributing to overall digitalisation and facilitating more efficient contract registration.

Decree of the President of the Kyrgyz Republic No. 64 (2020) is designed to accelerate the digital transformation of public administration in Kyrgyzstan. Paragraph 2 of the analysed document has several actions directly affecting the process of contract registration. It provides for amendments to the standards and administrative regulations of state and municipal services with their transition to electronic format through the State Portal of Electronic Services and the system of interdepartmental electronic interaction "Tunduk". The necessity to exclude the request for certificates and documents available through the system of electronic interaction is also emphasised, which can significantly simplify contract registration procedures, making them faster and more transparent (Decree of the President…, 2020). Such steps contribute to the creation of a more efficient and mobile public administration system, which in turn contributes to the modernisation of contract registration and control processes in the digital environment.

The analysis of statistical data demonstrated a significant impact of the ongoing reforms on the process of registration of civil law contracts. It should be noted the increase in registered civil law contracts, by the example of leasing contracts. In 2022, 17 companies were engaged in leasing activities, signing 1.8 thousand financial leasing contracts, which is 2.3 times more than in 2021, where 863 such contracts were signed. The total value of contracts in 2022 was approximately 4 billion KGS (National Statistical Committee…, 2023). In particular, the reforms aimed to simplify and digitalise registration procedures, which led to a reduction in the time required to process documents and improved accessibility of registration services for businesses and citizens. The analysis has shown that the introduction of digital technologies has significantly reduced the time for contract registration, as well as the number of documents and procedures required. For example, before the introduction of the reform, the average time for registering contracts was about 10 working days, and after the introduction of the reform, this figure was reduced to 3 working days (Kozhoshev *et al.*, 2022). This indicates an improvement in the speed and efficiency of the registration process. In addition, the re-

forms have significantly simplified procedures and reduced the requirements for the documents to be provided. Instead of providing a range of paper documents, electronic copies could be provided instead, which significantly reduced the time required to compile and submit the necessary materials.

New technologies, including electronic filing and online registration, have been successfully introduced as part of the contract registration reform. To date, more than 80% of all contract registration applications have already been submitted through a specialised online platform (Kozhoshev *et al.*, 2022). This has significantly reduced time and administrative costs for those involved in the process since no personal presence at the registration office or paper filing is now necessary. Online registration has also improved the accessibility of services for citizens, especially for those who live in remote areas or are unable to visit the office in person. In addition, the use of digital technology has helped to reduce corruption risks and increase the transparency of the registration process, as the online platform automatically tracks each stage of application processing and eliminates the possibility of human intervention (Yakymenko, 2023).

The analysis of statistical data confirmed the positive impact of the reform on the availability of registration services. For instance, after the introduction of the reform, the number of requests for registration of contracts increased by 25% (Kozhoshev *et al.*, 2022). This substantial growth indicates the increased activity of participants in civil law relations in using registration services. The increase in the number of applications indicates an improvement in the convenience and accessibility of the registration process, which can be attributed to both the simplification of procedures and the introduction of online systems that reduce time and administrative costs for clients. This indicates that reforms not only increase the efficiency and transparency of registration processes but also stimulate an active perception of such changes on the part of users, which contributes to a more efficient functioning of civil legal relations. Thus, the analysis of statistical data confirms the success of the reforms carried out in the field of registration of civil law contracts, as well as their positive impact on the efficiency, effectiveness and accessibility of registration services.

A comparative analysis with registration practices in other countries confirmed the compliance of the new registration system with international standards, which has a favourable impact on the investment climate and business development in the country. When comparing the practice of contract registration in Kyrgyzstan before the reform with the experience of the United States, a significant difference in the efficiency and accessibility of registration services between the two countries was revealed. In the United States, the process of contract registration is efficient and quick due to the widespread use of electronic platforms. For example, in California, entrepreneurs can apply for business registration through online portals of government agencies and receive registration documents within 24 hours (Singh & Jyoti, 2023). Such remote contract registration systems can significantly reduce time and simplify the process for entrepreneurs, reduce bureaucratic costs, and increase the accessibility of government services for citizens.

However, in Kyrgyzstan, before the introduction of the reform, the process of registering contracts required significantly more time and effort due to the lack of effective digital infrastructure and complex bureaucratic procedures. Citizens and entrepreneurs often had to personally visit the offices of state institutions to fill out paper forms and submit the necessary documents. This delayed the registration process for weeks and even months, which created significant inconvenience and hindered the development of business and civil relations. However, after the introduction of the reform in Kyrgyzstan, the situation started to improve. The introduction of digital technologies and improvements in the infrastructure of contract registration have reduced time costs and simplified the process for entrepreneurs and citizens (Veit & Thatcher, 2023). However, despite the improvements, challenges remain in Kyrgyzstan, such as instability in online systems and the need to further improve procedures. Unlike in the US, where electronic platforms are widely used without significant problems, in Kyrgyzstan the implementation of digital technologies still needs to be optimised and developed. This points to the need for further improvement of infrastructure and staff training to ensure the stable and efficient operation of the registration system. In comparison, Kyrgyzstan and Germany show different rates of development in the digitalisation of contract registration. A more rapid progress in this direction is observed in Kyrgyzstan, which is caused by the need to improve the infrastructure and accessibility of public services in the context of rapid technological progress (Jumalieva, 2023). The country actively introduces online platforms and digital services for contract registration, which helps to speed up the process, reduce bureaucratic costs and increase transparency. However, Germany, being a developed industrialised country with a more complex system of law and governance, has a more conservative approach to the introduction of new technologies (Ferschli *et al.*, 2021). Therefore, the process of digitalisation of contract registration may take longer due to the need to overcome complex organisational and legal barriers.

A questionnaire survey among the participants yielded results regarding the assessment of digitalisation in the contract registration process. Most respondents (about 70%) expressed a positive attitude towards the use of digital contract registration systems. They noted the convenience and accessibility of online platforms for filing applications and carrying out all necessary procedures. The main advantages highlighted by participants included the availability of services, the possibility of remote access to documents, and a simpler and more convenient registration process. Based on the age and professional diversity of respondents, potential differences in their attitudes towards the treaty registration system can be identified. Young people between the ages of 18 and 25 have a higher level of technical literacy and experience with digital technologies, and accordingly, 90% of respondents in this category tended to have a positive view of the registration system. On the other hand, older respondents, over 60 years old, have more difficulties in learning new digital tools due to less experience and more conservative attitudes towards technology. Thus, a more negative attitude towards the registration system can be traced.

In terms of professional diversity, business representatives highlighted the positive impact of digitalisation on the registration process, as they are more focused on the efficiency and usability of the system in the context of their business operations. Civil servants and lawyers were more critical of the technical aspects and data security, as the legal and confidential aspects of the contract registration process are particularly important to them. Ordinary citizens

showed different attitudes towards this system. Still, the majority (74%) evaluated the registration system positively in terms of usability and accessibility, as they are interested in the ease and speed of obtaining the necessary services from the state. To improve the registration process under the reforms implemented, the shortcomings of modern digitalisation encountered by the survey participants should be highlighted (Fig. 1).

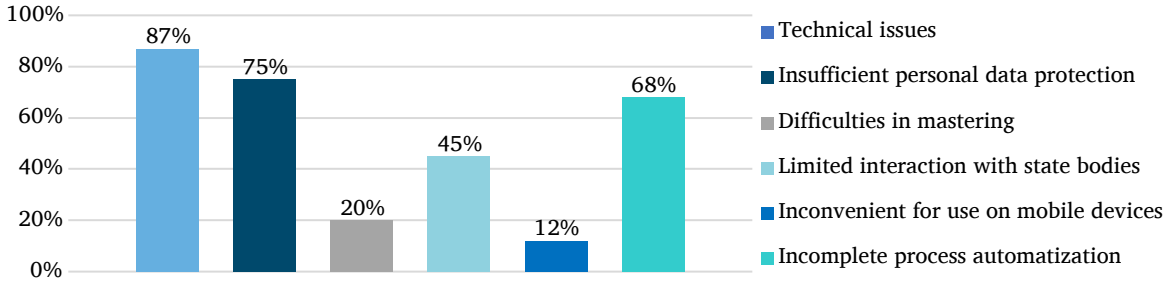

Figure 1. Survey participants' assessment of the shortcomings of digitalisation in the process of contract registration
Source: compiled by the authors

Survey participants identified technical failures and system access problems as one of the most notable shortcomings of modern digitalisation in the contract registration process (87%). They noted that frequent failures and interruptions in online platforms seriously hamper registration procedures, resulting in delays and lost time. Technical problems, such as glitches and interruptions in online platforms, cause dissatisfaction among users of all groups, excluding the possible influence of age or professional status on their perceptions. These problems also reduce trust in digital registration systems. Problems with system access, such as login difficulties or unstable connections, harm user experience, particularly noticeable among older respondents. This is due to their limited technical literacy and lack of experience with digital technologies, which makes the registration process less convenient and efficient for this user group. For example, some respondents noted that the online registration system occasionally crashed during peak periods, making it difficult to submit applications on time and requiring a second attempt. Such situations create additional inconvenience and increase the time spent on registration procedures.

Some respondents (75%), lawyers and civil servants, expressed concerns about the lack of reliability and security of data in digital contract registration systems. These professional groups dealing with sensitive information are aware of the possible risks associated with unauthorised access to personal and confidential data. Their concerns stem from the realisation that data breaches or security breaches can lead to serious consequences such as identity theft, fraud or breach of commercial confidentiality. Those risks cause lawyers and government officials to favour the use of more secure and reliable methods of recording and processing documents, as any leaks or breaches could adversely affect the confidentiality and integrity of data and public confidence in digital recording systems.

Difficulties in mastering new digital tools were also noted among the problems, especially among ordinary citizens belonging to the elderly age group (20%). These participants said that they have difficulties in mastering the interface and functionality of digital platforms due to their lack of experience with such technologies. Respondents face difficulties in understanding the processes involved in online filing and processing due to their inexperience in using digital devices and software. Moreover, insufficient user training and education, as well as the lack of access to quality technical support, reinforce these difficulties, creating additional barriers for citizens.

Survey participants, mostly lawyers and ordinary citizens, identified limited opportunities for interaction with government agencies as a significant problem hampering the process of communication and interaction with the authorities (45%). Lawyers working in the field of law and legislation particularly emphasise the need for access to advice and information from government agencies to resolve legal issues, including the registration of contracts. They noted that the limited availability of online consultations and insufficient accessibility of feedback channels create additional difficulties in obtaining necessary information or resolving legal issues that have arisen. Ordinary citizens also faced similar problems, as they had difficulty obtaining advice from government agencies during the contract registration process.

Youth representatives also highlighted the inconvenience of using digital registration systems on mobile devices as another disadvantage (12%). For young people, mobile devices are the main tool for communication and work in everyday life. They actively use mobile applications to access information, perform tasks and solve various issues anywhere and anytime. Therefore, the inconvenience of using digital registration systems on mobile devices limits their flexibility and ease of interaction with such systems.

Business representatives particularly emphasised the problem of incomplete automation of the contract registration process and the need for additional manual work (68%). For businesses, any additional steps that require manual intervention or correction lead to delays and inefficient use of resources. Business processes should be optimised and automated as much as possible to ensure the company's efficiency and competitiveness. Therefore, for business representatives, incomplete automation of the contract registration process is a major constraint in accelerating and optimising operations. Additional delays and inconveniences associated with the need to submit paper documents or go through additional stages of verification negatively affect the company's operations, reducing its competitiveness and profitability.

Such observations highlight the need to further improve and enhance the functionality of digital systems in contract registration to make the process more automated, simple and convenient for all participants. Therefore, it is necessary to

identify strategies for overcoming the identified problems, as well as recommendations for changing the norms at the legislative level, which will help implement ways to improve the process of contract registration in Kyrgyzstan. This paper identifies 6 strategies to overcome the identified problems:

1. Infrastructure upgrade and access management. This strategy involves systematic maintenance and modernisation of the technical infrastructure to prevent technical failures and ensure uninterrupted access to the registration systems. This includes the creation of additional redundant access channels, as well as regular software and hardware upgrades. Monitoring and automation mechanisms are also envisaged for the rapid identification and elimination of failures. In addition, staff training and the development of access control guidelines play an important role in ensuring effective system operation and minimising potential problems.

2. Systematically ensuring data security. This strategy aims to ensure a high level of data reliability and security by implementing modern encryption systems and strict compliance with international security standards. This includes selecting and implementing effective cryptographic methods to protect information, ensuring access only to authorised users, and creating data backups to prevent information loss. Organising regular security audits will help identify vulnerabilities and weaknesses in the system, allowing timely remedial action to be taken.

3. User training and support. Developing intuitive interfaces that simplify user interaction with digital systems should be prioritised. In addition, an important element of the strategy is the provision of ongoing user support, including counselling, online resources, video tutorials and chat rooms to quickly resolve issues. This will allow users to learn new tools more quickly and increase their confidence in using digital registration systems.

4. Digital platform of public service. This strategy aims to improve citizens' interaction with government agencies by creating convenient online platforms. The main objective is to provide access to necessary information and services of public institutions through one centralised virtual space. The strategy envisages the development of user-friendly and intuitive web portals where citizens can receive counselling, fill in and send documents, track the status of applications and access other public services.

5. Accessibility for mobile devices. The main goal is to develop mobile applications with adaptive interfaces that will be optimised to work on different types of mobile devices, including smartphones and tablets. The strategy envisages the creation of user-friendly and intuitive mobile applications that allow citizens to access public services. Such applications will be adapted to different operating systems (iOS, Android) and different screen sizes to maximise usability for all users.

6. Efficient automation of bureaucratic processes. This strategy envisages the introduction of additional automation features that will speed up the registration process and reduce the amount of manual work. This may include the creation of electronic forms and templates for filling out documents, automatic data processing and analysis, and the introduction of notification and reminder systems for process participants. The implementation of this strategy will significantly reduce the time and labour costs of registration processes, increase their efficiency and reduce the likelihood of errors.

To address the problems with contract registration in Kyrgyzstan through legislative measures, it is necessary to introduce regulations that would guarantee the security and confidentiality of data transmitted and stored in digital systems. This may include establishing cybersecurity standards for all online platforms, as well as introducing mechanisms to respond to cyber threats and prevent cyber-attacks. To ensure the convenience and accessibility of public services through digital systems, laws should be developed to strictly oblige public bodies to provide high-quality online services for contract registration. These laws should set clear standards for user experience interfaces, including ease of use, intuitive instructions and a minimum number of steps to complete the process. In addition, mandatory feedback mechanisms should be provided to allow users to report errors, provide suggestions for improving services, and receive prompt responses to their queries. It is also necessary to provide online consultation systems with representatives of state authorities so that citizens and entrepreneurs can receive professional assistance and advice on issues related to the registration of contracts. In addition, legislation should protect the rights of users and consumers of digital services, including guarantees of reliability and accessibility of online platforms. It is also important to include courses on digital technologies in educational programmes to ensure that professionals are trained with a high level of technical literacy. Finally, the stimulation of innovation and the development of technical infrastructure can be achieved through state support programmes for companies engaged in the development and implementation of digital solutions, as well as through investments in modern technologies in public institutions. Thus, the implementation of these strategies to address existing challenges can help to increase confidence in digital registration systems and improve the overall quality of public services.

Discussion

Analysing the study results, it is worth noting that the reforms aimed at digitalisation have indeed improved the speed and accessibility of registration services. However, there are also challenges associated with digitalisation, such as technical failures, difficulties in mastering new tools, and limited opportunities to interact with state authorities. This emphasises the need for additional measures to improve the contract registration system in today's rapidly changing society where information technology plays a key role.

Other authors also addressed this issue. For instance, A. Nikolova-Marković and L. Stajić (2022) highlighted the relevance of digitalisation in the context of civil law and highlighted both challenges and opportunities associated with this process. They addressed the need to adapt legal systems to the new realities of the digital age, which correlates with the results obtained in the conducted research. In particular, both papers focus on the significance of digitalisation for modern society and highlight the role of technology in improving the accessibility and efficiency of state and other contract registrations. Therefore, it is possible to conclude that both works converge in assessing the importance of adapting legal systems to digital progress and identifying the prospects of digitalisation in the field of civil legal relations.

L. Bischoff *et al.* (2023) pointed out the importance of understanding the effects of technology transfer on the

digitalisation process. This is indeed an important aspect, as successful digitalisation requires not only the introduction of new technologies but also an understanding of their impact on business processes and organisational culture. However, it is worth noting some disagreement with the authors on what kind of impacts and challenges they highlight. It is important to consider not only the technical aspects of technology transfer but also the social and organisational aspects such as changing work processes, staff training and change management (Pashaeva *et al.*, 2020). It is also worth considering that the success of technology transfer may depend on the context and specifics of implementation, which requires a case-by-case approach.

C. Pipino *et al.* (2024) provide an innovative blockchain-based system to digitalise governance. Their study emphasises the significant role of digitalisation, which is a relevant and promising area of development. However, it is possible to disagree with the presentation of blockchain as a one-size-fits-all solution for all aspects of human resource management, as its effectiveness and applicability may depend on the specific situation and context of use. Blockchain technology has its limitations and risks, such as data privacy, security and the cost of implementing and maintaining the system, which need to be carefully considered when implementing it (Gunay *et al.*, 2023). Thus, a comprehensive approach is required for successful digitalisation, including contract registration.

Y. Li *et al.* (2023) analysed digitalisation for improving the resilience and reliability of supply chains, focusing on the role of collaboration and formalised contracts. The authors highlight the importance of formalised contracts for digital resilience, which has direct relevance to the effectiveness of contract registration in civil law relationships. In the context of digitalisation, the conclusion on the importance of collaboration and formalised contracts is valid as they contribute to better governance and reliability within digital registration systems (Sinoimeri & Teta, 2023). The collaborative approach can contribute to the transparency and manageability of the registration process, as well as provide for more effective interaction between civil law actors.

H.C. Vo Thai *et al.* (2024) analyse dynamic capabilities and digitalisation as prerequisites for innovation and sustainable development based on empirical evidence from Vietnamese small and medium-sized enterprises. In the context of the digitalisation of contract registration, it is worth agreeing with the conclusion that digital technologies are effective in driving innovation and sustainable development. The use of digital registration systems can help simplify and speed up the interaction processes between businesses and government agencies, which in turn can help increase innovation and enterprise sustainability. However, given the specificity of the study in SMEs in Vietnam, it is necessary to consider differences in the context of other countries and business areas. For example, the effectiveness of the digitalisation of contract registration may depend on the level of digital readiness and infrastructure in different regions and industries, which requires a tailored approach to assessing the applicability and potential benefits for different actors and markets (Maziy, 2023).

F. Sezgin (2023) examines the impact of digitalisation on innovation using data from Eurozone countries. In the context of the digitalisation of contract registration, the conclusion that innovation is accelerated by digital technologies is valid. The introduction of digital registration systems can help improve the efficiency of business processes, stimulate the development of new management techniques and approaches, and improve access to information and resources for market participants. The author notes that in the context of Eurozone countries, digital technologies are actively used in various sectors, which stimulates the development of new management practices and business models. He also points out that digital transformation allows companies to adapt faster to changing market conditions and increases their competitiveness.

M. Burri (2023) discusses the impact of digitalisation on global trade law. The author emphasises that digital technology is significantly changing international trade relations and requires a corresponding adaptation of legal rules. Considering ongoing reforms and digitalisation, it is important to recognise the potential changes that may arise in the registration of civil law contracts. Although the author does not focus on the specific problems of contract registration, his conclusions on the need for legal changes to adapt to digital technologies are also relevant to this topic.

S. Grundmann and P. Hacker (2017) highlight the significant challenges posed by digital technologies in contract law. They emphasise the importance of adapting legal rules and procedures to the new realities of the digital era. In this aspect, one can agree with the authors and, in the context of the research conducted in this paper, highlight the need to modernise the law and processes in the field of contract registration to successfully adapt to digital technologies. However, it should be noted that the authors' work leaves out some key problems and potential challenges faced by participants in the registration process in the context of digital transformation.

The discussion of the research conducted with the publications of other authors revealed the importance of digitalisation in the context of civil law contract registration. Various works confirm that digital technologies play a key role in modern society, including in improving contract registration processes. However, many of these studies limit themselves to discussing general principles and do not delve into analysing the specific problems associated with this process. As a result, some important aspects of registration are overlooked.

Conclusions

This study analyses the current problems related to state and other registration of civil law contracts, considering the ongoing reforms and the active process of digitalisation. The registration of contracts plays a key role in ensuring the legal and economic stability of society, so attention to this area is an important aspect of legal practice and reform of the state apparatus. This paper analyses not only the current problems in the registration system but also possible ways of solving them, taking into account modern digital technologies.

The analysis of statistical data revealed a significant improvement in the accessibility of registration services after the introduction of digital systems, as well as an increase in the activity of participants in civil law relations to use these services. Electronic filing of applications and online registration of contracts reduced time and administrative costs contributed to the reduction of corruption risks and increased transparency of the process.

Comparisons with registration practices in other countries, such as the United States, have shown that the new system is on par with global standards, contributing to an

improved investment climate and business development. However, some shortcomings, such as technical glitches, insufficient data reliability and difficulties in mastering new digital tools, continue to persist. The study also included a questionnaire survey that identified not only the advantages but also the disadvantages of modern digital systems. Participants praised the increased speed and convenience of online registration, noting that it saves time and resources. However, respondents also raised concerns about data security and technical failures in the system.

Based on the study and the results obtained, several directions for further research can be identified. First, it is important to study in more depth the problems identified in the digitalisation of contract registration, such as technical failures, insufficient data security and difficulties in mastering new technologies. Further research could focus on developing effective methods to prevent technical failures and improve information security in digital systems.

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Conflict of interest

None.

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Актуальні проблеми державної та іншої реєстрації цивільно-правових договорів у світлі проведених реформ і цифровізації

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Анотація. В умовах швидко мінливого інформаційного простору і цифрових технологій, дослідження ефективності реєстраційних процедур є необхідним для забезпечення справедливості, захисту інтересів громадян і підприємців, а також підвищення ефективності державного управління. Метою цього дослідження було виявлення основних труднощів, що виникають під час реєстрації цивільно-правових договорів у Киргизстані в контексті сучасних змін у законодавстві та впровадження цифрових технологій, а також розробка практичних рекомендацій щодо поліпшення процесу реєстрації. Для досягнення поставленої мети було використано комплексний підхід, що включає аналіз нормативно-правової бази, метод статистичного аналізу, а також анкетування. Результати дослідження виявили кілька ключових проблем у системі реєстрації цивільно-правових договорів у Киргизстані. По-перше, було виявлено високу тривалість процесу реєстрації, що уповільнює економічні транзакції та створює невизначеність для сторін. По-друге, присутня недостатня прозорість процедур, що може сприяти корупційним практикам. Дослідження виявило обмежене використання цифрових технологій у процесі реєстрації цивільно-правових договорів у Киргизстані, що перешкоджає оптимізації та автоматизації процесу. Це пов'язано з недостатньою інтеграцією баз даних, застарілими системами та недостатнім розвитком інформаційної інфраструктури, що ускладнює ефективне впровадження сучасних технологій і уповільнює модернізацію системи реєстрації. Крім цього, запропоновано шляхи розв'язання цих проблем, які включають у себе поліпшення законодавства для прискорення процесу реєстрації, збільшення прозорості та доступності інформації, а також активне впровадження цифрових інструментів, як-от електронні підписи та онлайн-платформи, для спрощення процедур і зниження адміністративних бар'єрів. Результати цього дослідження можуть бути використані для розроблення та впровадження ефективних заходів щодо поліпшення системи реєстрації цивільно-правових договорів у Киргизстані, що, своєю чергою, сприяє підвищенню прозорості та доступності юридичних послуг для громадян і бізнесу

Ключові слова: законодавство; ефективність процесу; прозорість процедур; інформаційна безпека; електронні системи; міжнародний досвід; інформаційна безпека

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Transformation of interaction between the government and civil society institutions in the context of war: Legal and regulatory aspect

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Abstract. The year 2024 is marked by the relevance of considering the interaction between state bodies and public institutions, especially in the context of wars such as the Russian-Ukrainian war. Despite these difficulties, Ukrainian society has been active in confronting the aggressor and has received support from democratic countries. The study aimed to analyse the actual aspects of the interaction between the government and civil society structures during the period of martial law. A variety of scientific and legal methods were used, such as comparative legal, systemic, formal legal, formal-logical, descriptive analysis and forecasting methods. The current state of legal and regulatory framework for cooperation between government and civil society is considered, including an analysis of the experience of other countries, which highlights the key aspects of this interaction. It was established that in Ukraine, the processes of formation of a democratic state governed by the rule of law and institutionalisation of civil society are taking place in parallel, contributing to their mutual evolution. The interaction between political authorities and civic initiatives is important because it consists of interrelated factors: the influence of state structures on the activity of citizens and the

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influence of civil society itself on the formation of political decisions. The paper examined the root causes that delay or, on the contrary, facilitate the proper and effective exchange of ideas and initiatives between government agencies and the public, including imperfect legislation, ineffective existing mechanisms of interaction and their formal nature, as well a lack of public trust in government agencies, and others. The paper formulated and substantiated recommendations that can be used to improve the legal framework for the creation and functioning of civil society institutions as active participants in interaction with the authorities. These proposals may be useful for educational programmes, the development of scientific recommendations and practical activities of civil society institutions and authorities

Keywords: international experience; official authority; legal regulation; martial law; social partnership

Introduction

The annexation of Crimea, the partial occupation of Donbas, and later Russia's full-scale invasion of Ukraine significantly accelerated the evolution of civil society in the country. There was a rapid transformation of the social architecture of public space intended for general use. Non-governmental organisations, charitable foundations, volunteer groups, trade unions, employers' initiative groups, non-state media and other structures quickly adapted their activities to the conditions of martial law, which was declared by Decree of the President of Ukraine No. 64/2022 "On the Introduction of Martial Law in Ukraine" (2022).

The process of forming and expanding the areas of activity of civil society organisations and their institutional potential is actively unfolding in modern Ukrainian society. This potential opens new opportunities for influencing various spheres of community life, including political processes, through systematic monitoring conducted by civic initiatives. Thus, the issue of interaction between governmental structures and civil society institutions remains at the intersection of attention, especially in the context of the Russian-Ukrainian war that has broken out in Ukraine. In such circumstances, it is important to ensure effective coordination to win the war and overcome its consequences.

The academic world is actively researching the interaction between the government and civil society. For instance, O. Pukhkal (2022) focused on analysing the unity of Ukrainian civil society as a key factor in resisting the Russian invasion. He addressed the main aspects of the interaction between civil society and the government in the context of the Russian-Ukrainian war. Based on this, it was determined that such unity is based on common values that have long been entrenched in Ukrainian society during its formation as a democracy.

According to N. Vasyniova (2023), the successful implementation of Ukraine's strategic course towards EU integration involves the active development of civil society, increasing public trust in government structures, finding effective mechanisms to create a transparent and open governance system. An essential element is to ensure a communication partnership between the authorities and the public, especially in the context of the Russian-Ukrainian war, as this has a direct impact on the promotion of society's values and the protection of citizens' national interests. The implementation of these approaches creates an opportunity for active participation of citizens in the governance process, facilitates the ability to express their opinions and suggestions and participate in solving social issues, thereby contributing to the processes of digital transformation of politics to facilitate and improve these processes.

V. Cherevatiuk (2022) notes that, in line with the current historical challenges facing Ukraine, it is necessary to establish a new system of interaction between science, society and state and public institutions. This includes not only the promotion of scientific and technological progress and innovation but also the enhancement of the country's defence capability, strategic decision-making and the formulation of national development strategies. One of the key aspects of this process is the gradual implementation of successful public initiatives and programmes at the state level.

N.A. Lypovska *et al.* (2023) analyse the mechanisms of interaction between the government and the public to formulate and implement modern public policy in Ukraine. It is noted that public space is full of various actors, with the main pillar in a democratic society being the individual with his or her autonomy and ability to act, as well as public institutions and other public administration structures. Thus, the organisation of public space and the level of development of its main actors, institutions and mechanisms shape the nature of public policy and indicate possible ways of cooperation on mutually beneficial terms, which will contribute to the improvement of the level of governance of society.

O.M. Ivanytska and K.V. Yakymenko (2023) considered issues related to national security in Ukraine and the formation of an institutional framework for its solution, considering systemic challenges and threats to the country's sovereignty. The researchers substantiate the need to reform the public administration system to effectively ensure national security, including by improving the interaction between the state and citizens, creating an effective coordination system and involving the public in decision-making. Particular attention is paid to the importance of interaction between different levels of government, such as central and local authorities, as well as non-governmental organisations, to ensure the efficiency and coordination of management processes.

During his study of the interaction of public authorities with civil society, O. Vasylkovskyi (2024) identified several problems: a lag in the integration of digital technologies against the background of the development of digital democracy, the formal nature of the measures taken to support it, and insufficient attention to the development of e-democracy in the context of e-government. The author argues that there are serious problems in the interaction between government authorities and civil society, in particular in digital integration and the development of digital democracy. This problem is important and relevant, especially in the context of current trends towards the digitalisation of society.

The results of the research by scientists, in particular J. Pinckney *et al.* (2022), M. Nipa and M. Hasan (2023) highlight detailed understandings of good governance among actors, emphasising its broader significance beyond development as a fundamental cornerstone of social justice and citizen protection. While acknowledging the challenges faced by civil society institutions, including legal and resource constraints, the scholars identify opportunities to enhance their impact through collaborative efforts, the use

of technology, and the promotion of internal transparency and accountability. Limitations, such as potential participant bias and the qualitative nature of the research, are also highlighted and have significant implications for policymakers, civil society organisations and academics.

Even though there is a wide interest in this topic among legal scholars, there is a need for further research on this phenomenon, in the context of regulatory and legal support and martial law. Thus, the study aims to analyse the regulatory framework for interaction between the authorities and civil society institutions under martial law.

Materials and methods

A variety of philosophical methods were used to determine the prospects for improving the interaction between the government and civil society institutions. One of them is the dialectical approach, which allows for a deeper understanding of the essence of such interaction under martial law. In addition, the systemic method is used for a comprehensive study. It can be used to consider this problem in the context of the overall regulatory framework for interaction between the government and civil society, identifying the interrelationships and the impact of various factors on its formation and development. Other methods were also used to study the problems of transforming the interaction between the government and civil society in the context of the Russian-Ukrainian war. For instance, the comparative jurisprudence method was used to analyse the experience of the European Union countries in regulating the interaction between the state and civil society. A systematic approach was also used to organise various concepts of interaction between the government and civil society, especially in times of war, for their further analysis and classification. In addition, the method of descriptive analysis was used to identify the factors influencing the interaction between the government and civil society, as well as the current problems in this area at the present stage.

Formal legal analysis was used to organise and harmonise the key legal acts regulating the interaction between the government and civil society during martial law. This approach was used to assess the current state of the problem and identify possible areas for improving the interaction between the government and civil society in the changing environment of global challenges and wars. The formal and logical approach was used to formulate key conclusions and recommendations for improving the effectiveness of cooperation between the government and civil society in the current conditions of Ukraine. Comparative analysis and forecasting method was used to explore different approaches to understanding the interaction between the government and civil society, which helped to identify relevant areas for improving the legal regulation of this interaction. The institutional method aimed to understand the interaction of power through the prism of public institutions. The application of the institutional method in combination with the system-functional and system-structural approaches was used to investigate what needs and social structures ensure such interaction. The combination of these methods provided a more complete and comprehensive understanding of the issues related to understanding the current state of regulation of the interaction between the government and civil society institutions in wartime. This approach was used for a deeper study of the peculiarities of the functioning of such interaction, as well as to identify potential problems and ways to solve them.

Regulations of various legal sources were used in the study and to fully understand and substantiate the issue, in particular: Decree of the President of Ukraine No. 64/2022 "On the Introduction of Martial Law in Ukraine" (2022), Decree of the President of Ukraine No. 487/2021 "On the National Strategy for Promoting the Development of Civil Society in Ukraine for 2021-2026" (2021), Decree of the President of Ukraine No. 86/2022 "Issues of the Adviser – Presidential Commissioner for Interaction with Public Associations and Volunteer Formations Involved in Ensuring National Security" (2022), Resolution of the Cabinet of Ministers of Ukraine No. 996 "On Ensuring Public Participation in the Formation and Implementation of State Policy" (2010), Resolution of the Cabinet of Ministers of Ukraine No. 909 "On Amendments to the Resolution of the Cabinet of Ministers of Ukraine dated 3 November 2010 No. 996" (2022), Draft Law of Ukraine No. 7283 "On Amendments to the Law of Ukraine "On Local Self-Government in Ukraine" and Other Legislative Acts of Ukraine on Democracy at the Level of Local Self-Government" (2022), Draft Law of Ukraine No. 4254 "On Public Consultations" (2020). Furthermore, various sources were used, such as scientific articles, books, dissertations, reports and other materials on the research topic.

Results

The interaction between civil society and government reflects the essence of the fact that civil society is not a mere component of the state, but rather constitutes its foundation, functioning in interaction with it. This interaction takes many forms, from conflict to cooperation and partnership, the latter being the highest level of engagement. Civil society and the state, as integral components of the same social system, mutually influence each other. Changes in the structure and maturity of civil society necessarily affect the form and direction of public policy, in particular in governance and administration. Civil society influences the functioning of public administration bodies through various mechanisms and areas of influence:

- Protecting the rights and freedoms of citizens enshrined in the Constitution and international legal documents through complaints, proposals and petitions initiated by both individuals and civil society organisations that influence government decisions.
- Participation of citizens and civil society organisations in policymaking and control over the activities of state structures, which involves the creation of open monitoring mechanisms and regular exchange of information between the authorities and society.
- Active participation in mass events, such as rallies, strikes and other forms of public protest aimed at fighting corruption and inefficiency of the state apparatus.
- Various lobby groups influence government decision-making processes to protect their interests.
- Ensuring the protection of the rights of state officials from illegal actions and pressure from citizens and their associations.

The first significant step in cooperation between the government and civil society in the history of Ukraine was the IV Universal of 25 January 1918 (1918 – Declaration of..., 2024). This historic document was marked by the words: "The Ukrainian People's Republic becomes an

independent, sovereign, free, free state of the Ukrainian people". The Declaration of Independence of the Ukrainian People's Republic played a key role in the formation of the nation. This historic moment broke the link between autonomist and federalist concepts. The UPR's Basic Law, in paragraph 3, envisaged a system of government with three main branches, planning to transform the country into a parliamentary republic with significant powers of local self-government. However, external and internal political difficulties prevented the Central Rada from addressing this issue.

The next important stage of state-building was the activity of the Council of Ministers of the Ukrainian State in 1918 under the Hetmanate of P. Skoropadskyi. According to the Law on the Temporary State System, the Council of Ministers was a collegial executive and legislative body designed to guide and unite the work of several institutions in the legislative and executive spheres (Pshenyshna, 2009). The Council of Ministers synthesised both functions, as it was responsible for discussing and approving all draft laws. To support government activities, state agencies were formed with a clear division of management areas and approved charters and staffing structures. The State Chancellery developed regulations and coordinated the work of the agencies. The Council of Ministers' Administration performed organisational tasks. The newly established Small Council of Ministers helped to discuss and adopt some draft laws, allowing the Council of Ministers to focus on key state-building processes. The well-formed legal status and structure of the Cabinet of Ministers to some extent ensured the autonomy of legislative activity in the state affairs of the Ukrainian State of 1918.

Thus, the experience of the authorities of the Ukrainian People's Republic and the Ukrainian State of 1918 laid the foundations for the future institutionalisation of interaction between the state and civil society in Ukraine. War deepens the relationship between civil society and the government. The development of civil society continues, actively influencing the improvement of government institutions that act as intermediaries in the relationship between civil society and the state. The participation of civil society institutions in public administration helps to strengthen public authorities and makes them more accessible to the needs of the community. Such interaction is especially successful at the local and regional levels, where it stimulates effective decision-making with due regard to public opinion, which is extremely important in the context of martial law.

The results of the analysis conducted by the Ilko Kucheriv Democratic Initiatives Foundation revealed interesting differences in the views of citizens on civil society organisations. Throughout Ukraine, except for Crimea and the occupied districts of Donetsk and Luhansk oblasts, from 05-12 August 2022, 60% of respondents believed that the existence of non-governmental organisations is important for their city or village (18% believe it is unnecessary). This figure remains stable compared to 2013 when 58% believed that non-governmental organisations were necessary and 18% did not. The main areas of activity that respondents consider important for non-governmental organisations include protection of socially vulnerable groups (57%), control over the activities of the authorities (55% – 10% more than in 2013), provision of legal and other assistance in protecting rights (45%), uniting people with common interests (34%), and assistance to the military and volunteers in the war in Donbas (31%) (Oleg, 2018; Trust in the State…, 2022). These results demonstrate the solidarity of Ukrainian civil society, which is manifested in a wide variety of civic initiatives and projects aimed at countering Russian aggression and overcoming its humanitarian consequences. These actions are marked by innovative forms of systematic cooperation between the public, government agencies, businesses and the military.

Due to the introduction of martial law in Ukraine, public initiatives aimed at volunteering and charity have become more active. This is especially important in the context of limited budget funding and ineffective state support mechanisms. However, it is worth noting that this initiative has a limited impact on the political and socio-economic dynamics of the country, as it does not improve the efficiency of government and local authorities, but rather may divert their attention from real problems that need to be addressed immediately. In practice, civil society organisations influence the work of the government by providing advisory assistance (through participation in public councils, in the development and analysis of legislative acts) and exercising control (fighting corruption, checking the effective use of public funds and the activities of officials).

An important document that demonstrated the development of regulation of the mechanisms of interaction between the authorities and the public was Resolution of the Cabinet of Ministers of Ukraine No. 996 "On Ensuring Public Participation in the Formation and Implementation of State Policy" (2010). This act approved the procedure for conducting public consultations and approved model regulations on public councils at various levels of government (Appeal of the Ukrainian…, 2014). In the current context, an important document that standardises the interaction between government and civil society is the Decree of the President of Ukraine No. 487/2021 "On the National Strategy for Promoting the Development of Civil Society in Ukraine for 2021-2026" (2021). This act differs from previous approaches, as it offers an in-depth analysis of the development of civil society in Ukraine and the role of the state in this process while considering Ukraine's international obligations and standards for the development of civil society.

Changes in the functioning of public councils during martial law were introduced with the Resolution of the Cabinet of Ministers of Ukraine No. 909 (2022). Particular attention should be devoted to Draft Law of Ukraine No. 4254 "On Public Consultations" (2020), which was adopted in the first reading. This law regulates public consultation procedures for all public authorities and local self-government bodies to improve the conditions for public participation in the formulation and implementation of public policy. According to the draft law, the President of Ukraine, state collegial bodies and the National Bank of Ukraine should also be included in the list of entities that are obliged to hold public consultations. It also provides for the obligation to hold public consultations by local governments.

It is worth noting the adoption of Draft Law of Ukraine No. 7283 (2022), which provides for the consolidation of public participation in the formation of management decisions at the local self-government level. Thus, the draft law stipulates that internally displaced persons, as well as persons who have changed their electoral address, will be able to use public participation tools. The draft also details the procedure for holding public hearings, expert examinations, general meetings, and local initiatives. At the same time, the law

enshrines the opportunity for community residents to participate in participatory budgeting, school participatory budgeting, and other forms of participation in the budget process.

The analysis of the development of legislative support for cooperation between state bodies and civil society during martial law has shown that the legal system is aimed at supporting effective interaction to defeat external threats to Ukraine. The Russian attack not only threatened the lives and freedom of millions of Ukrainians but also highlighted the need to unite to preserve independence. In this context, civil society has been actively mobilising to support the government and self-government in addressing defence and humanitarian challenges. The Ukrainian League of Industrialists and Entrepreneurs coordinated assistance to the Armed Forces and provided necessary temporary shelter for thousands of displaced persons. The diaspora has also been active in raising financial support and exerting political pressure on the governments of the countries where it lives, demonstrating untarnished support for Ukraine in its fight for freedom (Trust in the State..., 2022). Thus, the President called on the Ukrainian media to more actively report on the achievements of the Armed Forces and the enemy's losses, and on Ukrainian citizens to support the military. The next step in this direction was the Decree of the President of Ukraine No. 86/2022 (2022). This interaction is critical in countering the aggression against Ukraine, as non-governmental organisations assist the Armed Forces, solve the problems of internally displaced persons and relieve the burden on the government. Ukrainian society increasingly understands the importance of the role of civil society organisations in public life: they are active in various areas, including human rights protection, political analysis and participation in reforms, including decentralisation. Non-governmental organisations play an advisory and controlling role that influences the activities of governmental structures.

Thus, the conditions of martial law pose complex challenges to the authorities and local self-government, where interaction with the public is key in countering Russian aggression. Civil society has been highly active and willing to help the Armed Forces of Ukraine, volunteer groups and those affected by the hostilities. Civil society organisations have become important partners for the authorities, helping to solve problems arising from the hostilities. Establishing advisory bodies that engage the public in policy formulation and implementation is proving to be an effective tool for civil society development. These mechanisms of interaction can be implemented by different institutions, ranging from parliament to local governments, which confirms the diversity of approaches to cooperation between the state and non-governmental organisations. At the same time, it is important to note that the formation of civil society in various democratic countries is achieved through the creation of advisory bodies that enable the direct participation of citizens in the formation and implementation of policies at all levels of government. The development of public consultation mechanisms in the European Union is an essential element, as it is one of the methods of interaction between the EU supreme bodies and public institutions, which is a form of communication with the public (Foreign Experience, 2024).

In developed democracies, the overall strategy and priorities are set by the main governing body of the foundation, as in Hungary, where the Foundation Council has adopted the strategy and funding principles. Foundations play a key role in each country, as they are a source of institutional funding that supports the general operations of civil society organisations without being limited to specific activities (Foreign Experience, 2024). This international experience can be useful for implementation in Ukrainian practice (Table 1). Investment and project-based approaches can be effectively used for implementation in Ukrainian practice.

Table 1. Institutional mechanisms to promote the development of civil society (based on the experience of other countries)

Country	Institutional mechanisms for the development of civil society	Implementation means
Great Britain	Ministry for coordination and monitoring of the implementation of state policy documents aimed at promoting the non-governmental sector	Coordination of ministries' work on cooperation with civil society institutions
Denmark, Poland	Ministerial bureaus for the implementation and monitoring of state programmes aimed at promoting the non-state sector	Coordination of ministries' work on cooperation with civil society institutions
Estonia, Latvia	Parliamentary committees for monitoring the implementation of civil society development programmes	Implementation of programmes to promote the development of civil society
Canada, Netherlands	Civic forums	An independent platform for participation in state-level decision-making
Germany	Public juries	Public participation in decision-making at the level of federal states and local communities
Croatia	Government Bureau for monitoring the implementation of Civil Society Development programmes	Coordination of ministries' work on cooperation with civil society institutions
Czech Republic	Governmental council for non-governmental non-profit organisations (a permanent advisory, initiative and coordination body)	Creating favourable conditions for the existence and operation of non-governmental organisations, preparing recommendations for the government on subsidising the non-governmental sector
United States of America	Public-private advisory committees and specialised commissions; volunteering; forums for discussing strategic plans for urban development; supervisory boards; public councils (public advisory committees); training and professional development of heads and members of public councils and commissions, representatives of the volunteer movement	Participation of members of territorial communities in assisting the authorities during emergency crises; an alternative to public hearings in the system of self-government functions; formation of a public administration reserve

Source: compiled by the authors based on the documents of the Unified Web Portal of Executive Authorities (Foreign Experience, 2024)

The main reasons that complicate proper interaction between political structures and the public in the current period include imperfect legislation, inefficiency of existing mechanisms of interaction and their formal nature, as well as lack of trust in state bodies on the part of the public and "scepticism" of political structures in communicating with the population.

The imperfection of the legislation governing the interaction between the government and civil society manifests itself in various ways. Firstly, many laws can be formulated or interpreted ambiguously, leaving room for different interpretations and use by political or other groups. This can create situations where the authorities use their authority to suppress civil society or, conversely, where groups of citizens exploit the vacuum in the law to protect their interests in violation of the law. Second, existing laws may not address the wide range of situations or needs that arise in modern society. For example, rapid technological changes may result in legislation failing to keep pace with new challenges, such as the protection of personal information in the online space or the regulation of social media. Such gaps in legislation can create situations of insecurity for citizens and allow the authorities to restrict citizens' rights and freedoms.

Given the active phase of the war against Ukraine, which caused political, economic and social instability, the interaction between civil society and political structures is of particular importance. To improve the effectiveness of their interaction, it is necessary to:

- to improve the legal framework for the establishment and functioning of civil society institutions as active participants in interaction with political structures, in particular by amending the current Law on Public Associations, in particular by expanding the rights and opportunities of these institutions in their interaction with political structures;
- to unify the scattered system of training and professional development of executive branch employees in public relations by adopting a special law that will standardise training and professional development programmes in public relations;
- to develop an effective model of financial support for civil society institutions by amending the Tax Code of Ukraine to ensure access to funding and introduce mechanisms to control its use;
- to improve the effectiveness of anti-corruption policy by focusing not on the number of corrupt officials detected, but on the number of convictions by amending the Criminal Code of Ukraine and other relevant legislation to improve anti-corruption mechanisms and ensure effective investigation and prosecution of corruption offences.

The effectiveness of interaction between political structures and civil society has a direct impact on the quality of the model of public administration, which is crucial for the state-building process. After the end of martial law, further decentralisation of power and the transfer of competencies to regional and local authorities should be considered. This is aimed at strengthening the state and forming a unified system of executive power at all levels, based on the principles of openness and transparency in governance and taking into account the reaction of society. To empower citizens in public administration, new forms of public consultations between government and civil society organisations should be introduced in Ukraine. This involves creating mechanisms for drafting legal acts and other decisions that consider public opinion and expert assessments. All important decisions taken by executive authorities should be subject to a public discussion process that involves the involvement of public experts and analysis of public (professional) opinion.

Higher education is critical in shaping the future of society. Personal values and beliefs are formed during education, which influence the development of civil society. Successful civilisation education requires a rethinking of the educational paradigm, focusing on the development of critical thinking. This implies a change in communication between students and teachers, active participation in the learning process, and the use of a variety of methods, including interactive forms and research projects. School governance can strengthen management skills and teach young people how to apply knowledge to everyday problems, especially in times of crisis.

Despite the critical role of higher education in shaping civic values and developing critical thinking, Ukrainian universities still face several challenges. First, a significant gap remains between curricula and labour market needs, making it difficult for graduates to find employment. Secondly, insufficient funding for higher education leads to outdated facilities and low salaries for teachers, which negatively affects the quality of education. Reforming higher education should involve close cooperation with employers to update curricula, attract additional investment in university infrastructure, and create incentives for teachers to improve their skills and introduce innovative teaching methods. Only a comprehensive approach to the modernisation of higher education will allow it to become a real driver of civil society development.

Discussion

Scientific research and practical experience show a growing interest in the interaction between the government and the community, especially in the context of democratisation and the digital transformation of modern society. This process defines the key aspects of ensuring balance, equality and mutual responsibility between citizens, society and the state, which is especially relevant during the Russian-Ukrainian war and post-crisis recovery.

According to D.J. Kim (2022), a normal form of interaction between the state and citizens is the use of violence against those groups that reject established values and norms. The demands of society and political decision-making are an ongoing process of interaction between government and citizenship. Following W. Wong and A. Wu (2022), public solidarity actions can be provoked by the state, but they are less visible in the modern world compared to various forms of citizen solidarity that require the state to comply with its functions and laws. While partially agreeing with the above theses, it should be noted that the use of final, comprehensive and legitimate physical coercion is the prerogative of the state, and the political system is directly related to the conditions and directions of application of this coercion. However, it is important to recognise the right of society to protect its rights in case of violation of moral norms by the state or loss of a sense of justice.

The state plays a key role in the development of interaction between the state and society. This is primarily due to its control over the Internet infrastructure and, accordingly, the establishment of legal boundaries for this interaction (Petrovskyy, 2023). M. Koch (2022), M. Roman and K. Fellnhofer (2022) identify three forms of democratic interaction: dissemination of information among citizens; creation

of opportunities for feedback; formation of partnerships between the state and citizens that include them in the political process. However, it should be understood that in actual practice, there is a variety of models and forms of interaction between the state and society that reflect the two opposing approaches. Strengthening state power is not always accompanied by restrictions on civil society and personal freedoms. However, when the state becomes a separate entity, outside the society that is subordinate to it, a dichotomy between the state and society arises.

Today, scholars distinguish three different stages of interaction between the state and the public. According to J. Pinckney *et al.* (2022), the first stage is that the state acts as a decision-making and implementing authority with limited regard for public influence. The second stage, following X. Thusi and M. Mashabela (2023), involves the growth of public influence on the state through the active participation of citizens in the political process, public debate and influence on the formulation and implementation of public policy. Finally, the third stage, according to S. Chaudhry (2022) and U. Jimmy *et al.* (2023), is characterised by a deepening partnership between the state and the public, where both parties cooperate in policy formulation and implementation, considering the needs and opinions of the public. All these approaches include co-optation, repression and legitimation. These studies reveal that the interaction between the state and the public develops following three stages. However, given the complexity and dynamics of the modern world, it is possible to deny the unambiguous characterisation of these stages as a sequential process. At the first stage, when the state acts as a power, as described in the above study, it is important to note that there are cases when the state shows a high level of sensitivity to public opinion and includes it in decision-making processes. Such situations can occur even at the stage that the authors describe as the first. The second stage, where the public actively participates in the political process, may not always be a sharp contrast to the first stage. Even at this stage, the state may retain a significant level of control over decision-making and policy formulation, without allowing the public to influence them sufficiently (Dunayev *et al.*, 2024). At the third stage, when the partnership between the state and civil society is supposed to deepen, it is important to bear in mind that even in this context there are different levels of partnership and cooperation. The state can limit the influence of the public and choose which groups to include in cooperation, which calls into question the characterisation of this stage as a full partnership (Yeromina, 2023). Thus, while the above stages may serve as useful theoretical models, it is important to consider their limitations and variability in the real world.

The academic community recognises clear differences between the approaches to civil society in the United States and Europe. According to E. Del Pupo (2023), the US model is based on the principles of liberal constitutional democracy, where civil society plays a key role. In the European paradigm, according to the study by B. Setianto and B. Widianarko (2023), which is based on the principle of the sovereignty of the people, which is typical for many European countries, political parties play a crucial role. There are significant differences in the approaches to civil society in the United States and Europe, but these differences may not be as clear-cut as they seem at first glance. Thus, it is not clear that civil society is crucial in the United States and political parties are crucial in Europe. The complexity of modern political systems lies in the fact that different actors, including both civil society and political parties, actively interact and influence the political process (Jeong *et al.*, 2023).

Following F. Çelik and N. Yücel Batmaz (2023), if the state begins to control all spheres of life, it can limit the freedom of development of society and the individual. This approach is also supported by N. Martin (2023), who argues that the power of the state should be limited in favour of civil society, as everyone has an innate right to community and interaction with others. The more developed a civil society is, the more effectively it can manage its internal affairs and the less it needs state intervention. Thus, civil society, as defined by legal scholars, is becoming a key aspect of social equality and an "ideal of the future". At the same time, it should be understood that while civil society can be an important aspect of social equality, its role and influence cannot be reduced to an "ideal of the future" or a single key aspect. In many contemporary societies, there are complex political, economic and cultural factors that influence its development and functioning. Furthermore, idealising civil society can lead to ignoring its shortcomings and challenges. For example, some groups may have limited access to civic participation due to social or economic barriers. In addition, an uncontrolled civil society may give rise to conflicts of interest or even confrontation between different groups, threatening stability and social equality. Thus, while civil society is an important ideal, its role in modern society needs to be seen in the context of the realities and challenges it faces (Slobodeniuk, 2023).

Modern legal science is increasingly interested in the question: "What should the interaction between political authorities and civil society look like?" The general opinion is that both actors should be effective, not too strong or weak. From this perspective, it is relevant to address the words of C. Aguerre and C. Bonina (2023), who argue that the separation of civil society from the state leads to problems with citizen participation in government processes and important political decision-making, which is the basis of democracy and its activism. M. Nipa and M. Hasan (2023) emphasise that by recognising the state as part of civil society, democracy as a system of democratic procedures where citizens participate in political decision-making enshrined in the level of state power is discussed. In agreement with the aforementioned, it should be emphasised that the effectiveness of interaction between political authorities and civil society has a direct impact on the quality of governance and the process of state formation.

Recognition of civil society is therefore essential for the establishment of democratic governance, as without it there is no way for citizens to exchange views, choose their identities and fulfil their responsibilities within a legal system that ensures peace, effective government and social justice. Civil society creates the conditions for citizens to interact and control the activities of political structures, including the coordination of interests, control over the actions of government bodies, lobbying for citizens' interests and maintaining communication links (Saliu, 2020). Today, civil society in politics is seen as a sphere of influence based on the principle of democratic associations and free discussion among intellectual groups.

Conclusions

The level of "maturity" of civil society determines its interaction with the government. If society is "vague and primitive", the state is its external embodiment. But such a balance is possible only when civil society shows "maturity". In the current environment, the interaction between the government and civil society institutions in Ukraine is facing new challenges. In this period, it is important to ensure the unity of society and jointly confront the threat. Citizens show greatness and determination to defend their country and help each other. This period strengthens national unity, reduces political divisions and unites every Ukrainian in defence of their homeland and freedom.

In the context of the Russian-Ukrainian war, the interaction between civil society and the political authorities is of particular importance, as this period is accompanied by instability in the political, economic and social spheres. To respond to the challenges posed by the conflict, Ukraine has adopted a range of legislative acts regulating the interaction between civil society and the political authorities. For example, one of the important laws that took effect after 24.02.2022 is the amendment to the current Law on National Security of Ukraine, which aims to ensure the effectiveness of measures to protect the state in the face of military aggression. It envisages strengthening cooperation between civil society and political authorities in the areas of security and defence, including the involvement of citizens in the protection of the territorial integrity and defence capability of the country. In addition, due to the need to provide humanitarian assistance and support to internally displaced persons, laws were adopted to coordinate actions between the government and civil society in addressing the socio-economic problems arising from the war. The results of these changes demonstrate the growing importance of interaction between civil society and the political authorities in the context of the Russian-Ukrainian war and instability.

Given the rapid development of technologies, it is necessary to examine their impact on the regulatory aspect of interaction between the government and civil society institutions. This includes an analysis of the legal regulation of cybersecurity, personal data protection, and the use of information technology in the activities of civil society organisations and government agencies. The study of these aspects will help to better understand the complex relationship between the government and civil society in times of war and direct efforts to improve the legal and regulatory environment for the protection of citizens' rights and interests.

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Conflict of interest

None.

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Трансформація взаємодії уряду та інститутів громадянського суспільства в умовах війни: нормативно-правовий аспект

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Анотація. 2024 рік визначається актуальністю розгляду взаємодії державних органів та громадських інституцій, особливо у контексті війн, таких як російсько-українська. Українське суспільство, не дивлячись на ці труднощі, проявило свою активність у протистоянні агресору та отримало підтримку від демократичних країн. Метою дослідження було вивчення актуальних аспектів взаємодії влади та громадських структур у період воєнного стану. У даній роботі використовувалися різноманітні наукові та юридичні методи, такі як: порівняльно-правовий, системний, формально-юридичний, формально-логічний, методи описового аналізу та прогнозування. Розглянуто сучасний стан нормативно-правового забезпечення співпраці між урядом і громадським суспільством, включаючи аналіз досвіду інших країн, що підкреслює ключові аспекти цієї взаємодії. Встановлено, що в Україні процеси формування демократичної правової держави та інституціоналізації громадянського суспільства відбуваються паралельно, сприяючи їхній взаємній еволюції. Взаємодія політичних органів та громадських ініціатив має важливе значення, оскільки вона складається зі взаємопов'язаних факторів: впливу державних структур на активність громадян та впливу самого громадського суспільства на формування політичних рішень. У роботі розглядаються корінні причини, які затримують або, навпаки, сприяють належному та ефективному обміну ідеями та ініціативами між урядовими структурами та громадою серед яких: недосконалість законодавства, неефективність існуючих механізмів взаємодії та їх формальний характер, а також відсутність довіри до державних органів з боку громадськості та інші. У рамках роботи сформульовано та обґрунтовано рекомендації, які можуть бути використані для удосконалення правових основ створення та функціонування інститутів громадського суспільства як активних учасників взаємодії з владою. Ці пропозиції можуть бути корисними для освітніх програм, розробки наукових рекомендацій та практичної діяльності громадянських інституцій та влади

Ключові слова: міжнародний досвід; офіційна влада; нормативно-правове регулювання; воєнний стан; соціальне партнерство

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Legal regulation of banks with foreign capital in certain EU countries

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Abstract. In the current environment, financial sustainability remains one of the most important long-term goals for any country. That is why finding opportunities to achieve it remains relevant. The purpose of this study was to provide recommendations for regulating banks with foreign capital in Ukraine based on data from the European Union countries. The main scientific methods were analysis, descriptive, comparison, and special legal research methods. As part of the study, it was shown that the countries of the European Union are actively taking actions to improve the financial stability of the banking sector. For this purpose, separate directives were formed, such as the Capital Requirements Directive, Capital Requirements Regulation, and the Basel III standards. In addition, some other directives were considered that affect the specifics of taxation in the region, the principles of reporting, the level of reliability of banks, and the transparency of accounting. It was shown that the banking sector of the European Union still faces problems, in particular, low profitability and problems in cooperation between banks and government agencies. The paper also provided separate recommendations for Ukraine, aimed primarily at bringing its banking legislation in line with international standards. However, it is important to understand that adaptation should also consider the specific features of the Ukrainian situation and correspond to local characteristics. The conclusions drawn in the framework of the study can be used to form a long-term state policy in the field of financial sector management

Keywords: financial stability; legal regulations; risks; international relations; economic growth

Introduction

In general, the legal regulation of banks with foreign capital in countries plays an important role, providing a regulatory framework for any relations between various entities within the country. There are many reasons for this: for example, the presence of foreign capital in the banking system can have both a positive and negative impact on the country's economy, and clear rules allow protecting national interests, ensuring that foreign investment contributes to economic development, and does not create risks to financial stability. In addition, clear rules help prevent financial crises, manage banks' liquidity, credit risks, and corporate governance standards. Effective regulation also helps to combat money laundering and terrorist financing by providing the necessary level of transparency and control over financial transactions (Mishchenko *et al.*, 2022). Thus, although the attraction of foreign capital to the country as a whole is expected to get positive results, however, there is a possibility of deterioration of the situation in the context of economic development due to the withdrawal of profits abroad (and not their reinvestment), increasing the country's vulnerability to financial crises, influence on credit policy, etc. (Dziamulych, 2023). That is why the study of foreign experience in this context remains relevant.

Many researchers have studied the features of legal regulation of financial markets in Ukraine. Thus, D.S. Trofymenko and O.P. Sush (2022) considered problematic aspects of derivatives regulation in Ukraine. Researchers described the specifics of defining the concept of derivative instruments and noted the problems that exist in the context of their regulation, but did not provide recommendations on how to improve the situation. State regulation and analysis of the main performance indicators of banks in Ukraine were carried out by S.M. Ganzyuk and T.D. Kadyrus (2019). Researchers noted that the change in the principles of banking supervision in Ukraine was quite significant, since initially it was based only on individual instructions (principles for each individual bank), while now it is based on unified rules, which is certainly a positive trend. L.O. Vasylieva (2020), in turn, also assessed the current features of regulating the activities of banking institutions in Ukraine. The researcher described various sources of influence that influenced the development of banking regulation features in Ukraine, including in Soviet times. However, no attention was paid to assessing the negative and positive components currently observed in this area. A. Kostruba (2024), in turn, generally considered the specifics of managing a business with foreign capital during

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the war. The researcher described the difficulties faced by foreign entrepreneurs who did business in Ukraine, and how they were affected by the beginning of a full-scale invasion of Russia. In addition, attention was drawn to the e-Residency initiative, which has the opportunity to facilitate business opportunities for foreign entrepreneurs by accessing enterprise management and public services remotely. P. Pylypyshyn *et al.* (2022), in turn, analysed the legal regulation of financial and economic security of Ukraine. They stressed the urgent need to improve the level of financial stability in the country, primarily through effective legal regulation. The researchers also proposed their own strategy, which would have a broader focus than the one that was relevant in 2022. Within the framework of modern Ukrainian economic literature, quite a significant amount of attention is paid to both the regulation of the financial sector and banks with foreign capital in particular. Nevertheless, there is a lack of comparisons of the principles that exist in Ukraine with other countries. Therefore, the purpose of this study was to analyse the specific features of legal regulation of the component of foreign capital in the banking sector in the EU and Ukraine.

Materials and methods

The study analysed a significant amount of legislative provisions of the European Union. In particular, information from Directive of the European Parliament and of the Council 2013/36/EU (2013), or simply Capital Requirements Directive (CRV V), Regulation (EU) 2019/876 (2019) and Basel III regulatory framework (Bank for International Settlements, 2010). Information was also used from Directive of Council of the European Communities No. 69/335/EEC (1969), Directive No. 86/635/EEC (1986), No. 89/646/EEC (1989), No. 93/76/EEC (1993), No. 2001/24/EC (2001) and some other directives. The Ukrainian legislative framework was also used, in particular, Law of Ukraine No. 2121-III "On Banks and Banking Activities" (2001). Separate statistical data were also used to characterise the situation with banks with foreign capital in European countries. For this information, we used data from the materials of the 31st annual meeting of the Board of Governors of the European Bank for Reconstruction and Development on the share of foreign banks in the structure of individual EU countries. All the above information helped to conduct a detailed analysis of the differences in banking sector regulation in Ukraine and the European Union. All calculations and constructions were made within the framework of Microsoft Excel.

The study used a comparison method to assess the specifics of regulation of banks with foreign capital in the European Union and Ukraine. Abstraction, in turn, was used to evaluate only certain indicators that most affect the functioning of banks with foreign capital in Ukraine. The descriptive method characterised the main features of regulation of banks with foreign capital in the country. The analysis was used to evaluate various types of data, including statistical data, that characterise the features of banking sector regulation in the European Union. Special legal research methods were also used. Thus, using the formal legal method, the logic of legal regulation of banks with foreign capital in the EU countries was evaluated. A more detailed assessment of the legislative framework was carried out, among other things, using the legal and dogmatic method. The comparative legal method was used to assess approaches to regulating the banking sector in different countries.

Results

The legal framework governing foreign-capital banks in the European Union (EU) is detailed and multifaceted, ensuring the stability of the financial sector while enabling it to support diverse end-users (Sabir *et al.*, 2019; Hartley *et al.*, 2020). This structure is designed to increase the resilience of banks, allowing them to withstand liquidity shocks and compensate for losses, and finance economic activity and growth. One of the key aspects of the EU banking regulatory framework is the prudential requirements introduced after the 2007-2008 crisis. These requirements, which are part of a single set of EU rules and include Directive No. 2013/36/EU (2013) and Regulation No. (EU) 2019/876 (2019) which implement Basel III international standards in EU legislation (Bank for International Settlements, 2010). This approach applies the Basel standards to all EU banks, not just "internationally active" ones, to promote a strong single banking market in the EU. This concept, which has received approval from the G20 and plays a key role in EU banking legislation, is aimed at strengthening regulation, supervision and risk management in the banking sector. The main principles of these standards include increased requirements for minimum capital levels, an assessment using leverage parameters, a liquidity assessment, and a net stable financing ratio. These standards are aimed at reducing the profitability of banks, while ensuring a higher level of their stability. However, this does not prevent sector institutions from making significant profits, nor does it solve all financial sustainability problems. An example of this is the bankruptcy in 2023 of Silicon Valley Bank (Vinokurov, 2023).

Council Directive No. 69/335/EEC (1969). According to it, capital taxation in the European Union applies to enterprises and organisations that carry out profitable activities and operate with capital or assets in exchange transactions. This taxation is carried out in the EU member state, where the company's management centre is actually located. If the control centre is located outside the European Union, taxation is carried out through the office or branch of a company registered in an EU member state. Council Directive No. 89/117/EEC (1989) sets out requirements for structural branches of credit and financial institutions established in one EU member state but headquartered in another member state, according to which they must publish their annual financial statements. This directive primarily aims to synchronise the disclosure of various financial documents, such as annual and summary reports, for these entities operating outside the EU.

In 1989, the European Union introduced Second Council Directive No. 89/646/EEC (1989). It was established on three main principles: mutual recognition, harmonisation, regulation and control at the country level. This principle of mutual recognition, known as the "single passport" principle, gives banks from any member state the opportunity to operate freely and open branches in other EU countries. Mandatory harmonisation provides that a product or service that meets the standards of one country can be placed throughout the European Union. Within the framework of European Union legislation, certain thresholds for initial capital for investment companies are set at EUR 730,000. However, companies that do not have special permits (for example, to own securities or assume financial obligations) may be allowed to reduce the capital requirement by EUR 50,000. This regulation aims to strengthen risk management in the financial sector, improve oversight practices,

and ensure reliable reporting and management mechanisms. Directive No. 2001/24/EC (2001) in turn, it defined pan-European procedures for restructuring and curtailing credit institutions. It treats the credit institution and its branches in the EU as the only organisation for regulatory oversight, ensuring that a license issued in one member state is recognised throughout the EU. This contributed to operational unity in situations of reorganisation or liquidation, optimisation of cross-border transactions, while adhering to common legal standards and protecting the integrity of the financial system. In the event of reorganisation or liquidation, banks are required to notify the regulatory authorities of any country where they have branches. This obligation also applies to banks whose headquarters are located outside the EU, but have branches in it. If a branch located in the EU requires reorganisation, the competent authorities must immediately notify the other countries where the bank's branches are located of any administrative or judicial measures taken. Directive of the European Parliament and of the Council No. 2006/48/EC (2006), in turn, describes the issue of mandatory audit of annual and consolidated reports. This directive repeals Eighth Council Directive No. 84/253/EEC (1984), which aims to improve the quality and effectiveness of mandatory audits in EU member states. The main purpose of this directive is to establish requirements for the use of a single set of international audit standards, strengthen cooperation between EU countries and other states, and increase confidence in mandatory audits. Despite the tight regulatory framework, the EU banking sector faces difficulties, including generating income below the cost of capital compared to its counterparts in the United States. This can be explained by the lower growth rate in the euro area by the negative effects of geopolitical instability (Russia's full-scale invasion of Ukraine). Structural obstacles to bank consolidation also remain, which does not allow banks to realise synergy between markets.

Overall, Basel III has several features. Thus, it primarily aims to improve banks' ability to cope with financial stress, increase transparency, and strengthen overall banking risk management practices (Nguyen, 2020; Zhang *et al.*, 2020). In order to improve the regulatory framework, separate indicators for evaluation were also developed (Matuszak *et al.*, 2019). For example, Basel III raised the minimum capital requirements for banks, setting the total minimum equity requirement at 4.5% of risk-weighted assets, and introducing an additional capital retention buffer of 2.5%, creating an overall minimum requirement of 7%. There was also a limit on the leverage ratio, which should be more than 3%. Basel III has introduced ratios such as the liquidity coverage ratio (LCR) and the net stable financing ratio (NSFR) to ensure that banks have sufficient high-quality liquid assets in the event of a 30-day crisis scenario (Grundke and Kuhn, 2020; Rehman *et al.*, 2022; Thomas *et al.*, 2023). However, the need to comply with Basel III conditions creates problems for the banks themselves, in particular, in terms of the availability of their confidential data (Kim & Katchova, 2020; Jutasompakorn *et al.*, 2021). This requires improving the quality and speed of risk data collection and reporting.

It is also worth considering the specifics of regulating the banking sector and, in particular, banks with foreign capital in individual countries. In Poland, such a body is the Polish Financial Supervision Authority (KNF). This body oversees many components of the financial sector, including the stock market, insurance, capital market, rating agencies, banks, etc. Control over the activities of such institutions is established through diverse legislative acts; as for the management of foreign banks, it is described in the Act Bank Law (1997). Article 40 of this Law describes the process and requirements for opening a branch of a foreign bank in Poland. In particular, for further activities, the Polish KNF issues the necessary permit based on an application submitted by a foreign bank. The application must contain information about the bank, types of banking activities for the branch, allocated funds, information about personnel and compliance with the terms of the guarantee scheme, if any. Once approved, the branch operates in accordance with the rules issued by a foreign bank, and any changes to these rules require KNF approval. The branch must use the name of the foreign bank together with "branch in Poland", maintain a separate accounting department, adhere to the approved rules and keep records in the branch. In addition, branches that are not covered by the guarantee scheme must inform beneficiaries and stakeholders about their financial condition, participation in the guarantee system (if applicable), and details of non-guaranteed claims.

To open representative offices by foreign banks and credit institutions in Poland, organisations must obtain a KNF permit, which is issued based on an application submitted by the interested bank or credit institution. The application contains information about the company, the location and scope of the representative office, and information about the candidate for the position of Representative. The scope of representation of a foreign bank or credit institution is limited to such activities as advertising and promotion of a foreign bank or credit institution within the permitted scope. The KNF maintains a list of permits issued, and any changes or termination of activities must be reported to the Financial Supervision Commission; the organisation may also revoke the permit if a foreign bank or credit institution violates Polish law.

Considering the specifics of the Czech Republic, the local main main regulator of banking and financial services is the Czech National Bank. However, the main legislative act in this area in the country is the Act on Banks (1992), which also describes the specifics of regulating banks with foreign capital. A foreign bank wishing to open a branch in the Czech Republic must apply for a license. The application must contain an opinion of the banking supervisory authority in the bank's country of origin confirming that the branch is subject to banking supervision. However, certain conditions for obtaining a license must be met, in particular, the funds must have a transparent origin, and their amount must also be equal to CZK 500 million. In addition, the bank itself must be reliable and financially stable; the bank's business programme must be based on adequate economic calculations. The head of the bank may request to receive statements about the criminal records of the bank's senior staff. The National Bank of the Czech Republic is obliged to constantly monitor the activities of such entities in the country, and cooperate with other local authorities for this purpose.

In Germany, banking and financial services are regulated by two main bodies: Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) and Deutsche Bundesbank. The former is responsible for authorising and overseeing credit institutions, financial services institutions, and investment companies in accordance with the Banking Act (Kreditwesengesetz, KWG) (2009) and Wertpapierhandelsgesetz. WpIG (2019).

Deutsche Bundesbank, in turn, helps with oversight by analysing their reports, assessing capital adequacy, and monitoring risk management. In France, such a body is the Authorité de Contrôle Prudentiel et de Résolution (ACPR), which regulates the banking and insurance sectors, ensuring the stability of the financial system and protecting its own customers. In Belgium, there are two autonomous bodies that regulate the financial sector, namely the National Bank of Belgium (NBB) and the Financial Services and Markets Authority (FSMA). In all three of the above-mentioned countries, there are no special legislative acts regulating the activities of banks or banks with foreign capital: and in most cases, local legislation duplicates European norms and directives.

It is also worth considering the features that exist in the Scandinavian countries on the example of Sweden. In IT, services are regulated by the Swedish Financial Supervisory Authority (SFSA), which oversees the authorisation and supervision of banks, insurance companies and other financial institutions. SFSA plays a crucial role in ensuring compliance with regulatory standards and ensuring the stability of the financial sector. The Swedish Central Bank, in turn, works under the Swedish parliament and focuses on monetary policy. Its main goal is to maintain a low and stable level of inflation by influencing interest rates, and overseeing the operation of the payment system and managing Sweden's gold and foreign exchange reserves. The country's banking system is also closely linked to the supervisory authorities of the European Union, and although the country is not part of the euro area, its branches of its subsidiaries – yes, and therefore fall under the supervision of the European Central Bank. As for regulatory laws, they are mainly developed based on EU directives and regulations, and local Swedish legislation implements these pan-European legal requirements. Thus, the main legislative act in this area can be considered the Banking and Financing Business Act (2004:297) Act of Ministry of Finance of Sweden No. 2004:297 (2004), which is a key legislative act regulating the activities of banks and financial institutions operating in the country.

In Ukraine, the main document regulating the development of the banking system, including foreign banks, is the Law of Ukraine "On Banks and Banking Activities" (2001). Its article 24 describes in detail the process of opening a presence of foreign banks in Ukraine through branches and representative offices. According to the latest version, as of January 1, 2024, foreign banks can open their branches in Ukraine if certain requirements are met. In particular, the country of origin of a foreign bank must comply with international standards on countering money laundering and terrorist financing, and have banking supervision consistent with the principles of the Basel Committee, subject to effective consolidated supervision (Sabir *et al.*, 2019). In addition, the legislation of the country of origin of a foreign bank should not prevent cooperation between the National Bank of Ukraine (NBU) and foreign supervisory authorities. The process of accreditation of branches is carried out by the National Bank, which includes checking the necessary documentation and entering branches in the State Register of banks for banking activities.

Foreign banks must submit various documents for accreditation, including: registration documents of a foreign bank, the decision to open a branch, industry regulations, financial statements of a foreign bank for the last three years, obligations to fulfil obligations in Ukraine, documents confirming the contribution of the necessary capital, internal rules of banking services and risk management, details of the business plan and organisational structure. However, the NBU may refuse if the documents turned out to be incomplete and inaccurate, banking equipment and premises do not meet the standards, there are problems with personnel, the branch does not have the necessary personnel or organisational structure, the bank's management or financial condition does not meet the requirements, and the bank's ownership structure lacks transparency (Burkovska & Koval, 2023).

Since February 2022, the NBU has taken significant steps to adapt the country's financial system to the new conditions of martial law. These changes were multifaceted and concerned various aspects of banking operations, currency regulation and non-bank financial institutions to ensure the stability and support of the Ukrainian economy and its citizens. To meet the urgent liquidity needs of banks, the NBU introduced blank refinancing loans without restrictions on the amount for one year, with the possibility of extending for another year, and fixed the UAH exchange rate against foreign currencies, stopping the calculation of the reference UAH exchange rate to USD (Prymostka & Kysil, 2023). These steps were part of a broader package of measures to ensure currency stability, which also included lifting banks' restrictions on exchange rates for cash and payment card transactions.

Considering the experience of the European Union countries, several recommendations for Ukraine can be formed. Thus, it is necessary to introduce bringing banking legislation in line with international standards, in particular, the standards of the Basel Committee on banking supervision, including the requirements of Basel III. This will improve the resilience of banks with foreign capital to financial crises, increase transparency, and strengthen overall risk management practices. In addition, it is important to implement and enforce strict prudential requirements such as CRD V and CRR II in order to ensure adequate capital and liquidity reserves among local banks. Indicators for banks should be set independently, based on the actual situation in the country, but as an example, you can use data from EU countries, including those described in the study. Improving supervisory practices to ensure effective supervision of banks with foreign capital is also an important tool for ensuring the goals of the highest possible quality functioning of the banking sector, along with ensuring transparency of the banking system and detailed disclosure of financial condition information. Thus, additional deeper management of banks with foreign capital and compliance with the described recommendations will allow for a more sustainable level of development of the banking sector in the country.

Discussion

The main recommendations on how to regulate banks with foreign capital in Ukraine, considering foreign experience, were noted above. However, this is possible only in the conditions after the end of the war, since now the state authorities have more pressing issues that must be resolved related to the situation at the front and ensuring other components of financial stability. Investment projects for foreign banks in Ukraine are currently unattractive due to the increased risks associated with the war. Nevertheless, after its completion, seeing prospects for growth in the country, foreign capital can flow to Ukraine at a particularly rapid pace. At this point, the creation of more effective mechanisms for

managing them and regulating them is very important, since it can become the main characteristic of financial stability in the country as a whole. In addition, the state's activities on the other side will also be important: in particular, creating favourable conditions for investors, providing tax benefits or simplifying certain bureaucratic procedures. If investors are interested in direct investment, it is still important to provide cheap loans and recommendations on doing business in the country (Rats & Alfimova, 2023). On the other hand, given the possibility that the conflict will continue for quite a long time, the introduction of some such initiatives should take place now.

The importance of foreign direct investment for the country is actually shown in the paper by Y.S. Chen *et al.* (2023). They showed that there is a link between the availability of financing (based on East Asian countries) and the volume of foreign direct investment. The results show a positive and significant impact of financial investment on FDI in both the short and long term, especially in high-income countries. The current study did not focus on the effectiveness of introducing foreign direct investment into the country, but proving the existence of such a positive effect may indicate that the investigation of this phenomenon really remains important.

The role of increased banking sector regulation in managing volatile capital flows was considered by K.C. Neanidis (2019). Researchers have noted that international capital flows can affect a country's economic development in different ways. Although they are more likely to contribute to the country's economic development, they can also be dangerous, and therefore, the development of policies aimed at regulating them is important. The findings suggest that effective regulatory policies can indeed reduce the negative effects of volatile capital flows, which, in turn, helps increase the sustainability of the financial system. This effect is observed in different types of capital flows and regulatory instruments, although it is more pronounced in middle-income countries and less in countries with open and developed financial systems that face macroeconomic instability. The conclusion highlights the importance of regulatory policies in managing systemic risks, especially for countries that are sensitive to volatile financial flows. However, the researcher also warns that such policies may limit the availability of high-risk financial projects, potentially affecting economic activity and efficient resource allocation. However, in the long run, competent regulatory policies can have a significant positive impact on the country's long-term growth. As part of the current study, it was also noted that attracting foreign investment to Ukraine is an important component of its long-term development, especially in the conditions after the war. Nevertheless, the country will indeed need an updated legal framework in this context, as otherwise it may risk all the negative effects of attracting too much foreign capital from banks, as also described in this paper.

F.J. Contractor *et al.* (2020) investigated how a country's legislation and business environment affect the inflow of foreign direct investment. The findings of the study showed that the regulation of international trade and the development of institutions are significant factors for attracting foreign direct investment. In addition, multinational companies are willing to compromise on one institutional variable if the other offers greater benefits: for example, companies may adopt less effective entry and exit rules in exchange for stricter contract execution. Thus, the paper concludes that a high-quality policy is being formed in the context of attracting foreign direct investment, which does not necessarily have to be aimed at simplifying processes and reducing supervision of this activity in the country. The current study also drew attention to the importance of developing high-quality legislation in the country and ensuring its compliance in order to have better long-term results in the context of economic development.

T.N.L. Le *et al.* (2023) assessed capital requirements and bank efficiency under Basel III based on data from Austrian and British banks. They noted that stricter conditions for banks' activities increased operating revenue, but did not increase the level of their profitability, that is, the efficiency of business functioning. This raises doubts about the effectiveness of tax policies in the banks based on which the study was conducted. The researchers also proposed a variant of the optimal capital structure in the company to work most effectively under the restrictions of Basel III, and also assessed the differences in the impact of certain macroeconomic indicators, such as the level of inflation, on the functioning of banks in Austrian and British banks. Based on these data, researchers concluded that each state should have a clearly defined strategy for the development of the financial sector for the long term, according to which to form a regulatory system, understanding the specifics of the local functioning of the banking system and business in general. It is worth agreeing that the development of any legal norms in the country should converge with its long-term goals. The state authorities should understand how much certain legislative assets can increase the economic efficiency of the country, or increase its financial stability (in this context). Often, the adoption of the same laws has a double effect (for example, reducing investment attractiveness, but increasing financial stability) (Horodnichenko & Kucherenko, 2022). In such cases, it is necessary to understand which effect is more influential and important for the country. The current study noted that in Ukraine, the introduction of such regulations as Basel III can really be effective, but so far such implementation is unlikely due to the war in the country. Research on the impact of Basel III on macroeconomic sustainability was also conducted by J. Fidrmuc and R. Lind (2020). Researchers noted that in general, such changes reduce the risk of banks defaulting, but their compliance is difficult, especially during periods of increased tension. Thus, they believe that the cost-effectiveness of Basel III is still not fully proven and remains ambiguous. The current study did not assess the effectiveness of this reform, although it mentioned what results it should bring to the country from a theoretical standpoint. Nevertheless, given the significant instability in the modern world as a whole, the introduction of such reforms is necessary, since financial instability can significantly negatively affect the development of the country.

Conclusions

The study assessed the regulation of foreign banks in the European Union. It was shown that the association seeks to ensure the stability and sustainability of its financial sector through detailed legal regulations, which is primarily due to changes after 2007-2008 and events during the COVID-19 pandemic. The inclusion of prudential requirements, including the Capital Requirements Directive and Capital

Requirements Regulation, indicates a unified approach to strengthening the stability of the financial sector. An important role in this context was also played by Basel III, which also tightened the standards for regulating the banking sector and managing risks in this area. These standards focus on increased capital structure requirements, leverage, and liquidity estimates, and aim to reduce fluctuations in bank earnings while improving stability. Despite these strict standards, there are also problems with instability in the banking sector, as evidenced by the collapse of Silicon Valley Bank in 2023.

The study also evaluated the European Union's regulations governing taxation of the banking sector, the submission of annual and consolidated financial statements of financial institutions, increased transparency, and the harmonisation of the banking sector as a whole. In particular, the principle of a "single passport" was highlighted, which facilitates the work of bank branches in the countries of the association. Despite the strengthened regulatory framework, the EU banking sector faces challenges such as profitability, market fragmentation and structural obstacles to bank consolidation. These challenges highlight the need for continuous adaptation and improvement of regulatory practices to promote a more sustainable and competitive banking sector. Based on the EU's regulatory landscape, the conclusions in the paper helped to develop recommendations that emphasise the importance of bringing its banking legislation in line with international standards, in particular those established under Basel III. Improving risk management practices, ensuring adequate capital reserves, and promoting transparency and accountability are key. Now the NBU plays a crucial role in ensuring compliance with banking legislation, supervising banks with foreign capital, and implementing measures to promote financial stability, especially in the context of war and its consequences. A deeper assessment of the legislation of the European Union countries and finding opportunities to use local experience in Ukraine is relevant for further research.

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Conflict of interest

None.

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Правове регулювання банків з іноземним капіталом в окремих країнах ЄС

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Анотація. В сучасних умовах фінансова стійкість залишається однією із найбільш важливих довгострокових цілей для будь-якої країни. Саме тому знаходження можливостей для її досягнення залишається актуальним. Ціллю даного дослідження стало надати рекомендації для регулювання банків з іноземних капіталом в Україні на основі даних з країн Європейського Союзу. Основними науковими методами стали аналіз, описовий, порівняння, а також спеціально-юридичні методи дослідження. В рамках дослідження було показано, що країни Європейського Союзу ведуть активні дії в направленні підвищення фінансової стійкості банківського сектору. З цією ціллю було сформовано окремі директиви, такі як Capital Requirements Directive та Capital Requirements Regulation, так само, як і стандарти Basel III. Крім того, розглядалися і деякі інші директиви, що впливають на особливості оподаткування в регіоні, принципи подання звітності, рівень надійності банків та прозорість ведення бухгалтерського обліку. Було показано, що банківський сектор Європейського Союзу досі стикається з проблемами, зокрема низькою прибутковістю та проблемами у питаннях співпраці між банками та державними органами. В роботі було також надано окремі рекомендації для України, направлені в першу чергу на приведення її банківського законодавства у відповідність до міжнародних стандартів. Проте важливо розуміти, що адаптація повинна враховувати також особливості української ситуації та відповідати місцевим особливостям. Висновки, зроблені в рамках дослідження, можуть бути використані для формування довгострокової політики держави в сфері управління фінансовим сектором

Ключові слова: фінансова стабільність; законодавчі норми; ризики; міжнародні відносини; економічне зростання

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Institutional and socio-psychological determinants of the delinquency of ruscism in the war against Ukraine

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Abstract. The research relevance of the institutional and socio-psychological determinants of ruscism delinquency in the context of Russian aggression against Ukraine is determined by the unprecedented scale of crimes against humanity committed by the Russian occupants. The study aimed to provide a comprehensive coverage of the historical, political, ideological, legal, propaganda and socio-psychological factors that determine the criminal behaviour of the invaders. The main findings of the study showed that the crimes of ruscism are not isolated excesses of individual perpetrators, but a natural outgrowth and quintessence of the centuries-old tradition of Russian imperialism, which over a long historical period systematically violated the fundamental norms of international law, disregarded basic human rights and cynically despised the values of civilised coexistence of peoples. The delinquency of ruscism has deep historical roots, going back to the centuries-old tradition of territorial expansion, political despotism and unpunished state terror that have defined the character of the Russian state for centuries. The current manifestations of racist crime are an organic and natural extension of the neo-imperial paradigm of the "Russian world", which is based on great-power chauvinism, outright contempt for the sovereignty and identity of other nations and justifies Moscow's right to dominate neighbouring nations. A decisive role in generating massive public support for the aggressive war against Ukraine was determined by the Kremlin's powerful and extensive propaganda machine, which, through controlled media and public

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discourse, systematically demonised and dehumanised the Ukrainian people and legitimised any atrocities and crimes against humanity in the eyes of Russians under the cynical pretext of "protecting the Russian-speaking population"

Keywords: war crimes; great-power chauvinism; disinformation; hate propaganda; dehumanisation; mass consciousness

Introduction

Since 2014, when Russia illegally annexed Crimea and launched military operations in eastern Ukraine, the Ukrainian people have been living under constant aggression from Russia. The hybrid war waged by Putin's regime against Ukraine included sponsorship of terrorism, support for separatist movements, information attacks and other forms of destabilisation of the Ukrainian state. However, on 24 February 2022, this aggression escalated into a full-scale invasion, which became the greatest challenge to the entire civilised world since the Second World War. Contrary to international legal norms, the basic values of peace, democracy and humanity, Kremlin politicians are seeking to implement groundlessly far-fetched, imperial goals of destroying the Ukrainian people and state. Civilians, children and the elderly are being killed by artillery and rocket attacks. Social infrastructure, including medical, educational and cultural institutions, is being destroyed. Russian total aggression also includes information and semantic warfare aimed at destroying spiritual values, including moral and legal norms (Danilyan *et al.*, 2023).

The usual manifestations of a war of aggression are the commission of antisocial behaviour and various types of crime by the occupants. To define the latter, it is customary to use the concept of "delinquency", which has an interdisciplinary meaning and whose content is revealed in law, sociology and psychology (Spytska, 2023). In this context, there is an urgent need to study the issues of institutional and socio-psychological determinants of the invaders' delinquency. The research relevance is determined by the scale and brutality of the crimes of the ruscist troops against the civilian population of Ukraine. It is necessary to reveal the conditionality of these crimes by the system of ideological, political, legal, moral and psychological norms and guidelines officially adopted in Russia and supported by the majority of the population. This statement is the methodological basis for the topic's disclosure – the identification of objective, institutionally accepted and socially approved determinants of the occupants' criminality.

The problem of the delinquent nature of ruscism in the war against Ukraine is relevant and requires further study. L. Pries (2022) addressed Russian aggression against Ukraine in the context of the problem of organised violence, noting its systemic nature and rootedness in the political culture of Russia. E. Fortuin (2022) and O. Dudko (2022) analysed the use of the term "genocide" in Russian propaganda and the limitations of the modern definition of genocide in the context of mass atrocities in Ukraine. However, these works do not pay sufficient attention to the problem of institutional and socio-psychological determinants of racist delinquency. R. Cherepakhin (2022), G.G. Littleton (2022) and O.S. Datsko (2020) studied Russian propaganda as an instrument of war, enemy image formation and disinformation. E. Johansson-Nogués and E. Şimanschi (2023) also examine the mechanisms of information distortion and justification of aggression in Russian propaganda. However, these studies do not offer a comprehensive analysis of the institutional and socio-psychological sources of invaders' delinquency. J. McGlynn (2023) examines Russians' attitudes to the war, drawing on media analysis and interviews to show the entrenchment of alternative Kremlin narratives in the minds of the majority. C.E. Ehrlich (2021) examines the problem of propaganda and distortion of history in the post-Soviet space. B.E. Johansen (2023) analyses ultranationalism as a form of mass insanity. However, these works do not focus directly on the problem of ruscism delinquency and do not offer a systematic analysis of its determinants.

Thus, despite the importance of existing studies, they do not provide an exhaustive answer to the question of the institutional and socio-psychological determinants of the delinquency of ruscism in the war against Ukraine. This study aims to fill this gap by offering a comprehensive analysis of the historical, political ideological, legal, propaganda and socio-psychological sources of the occupants' criminal behaviour. The study will allow for a deeper understanding of the institutional and socio-psychological determinants of the delinquency of ruscism.

The study aimed to reveal the main institutional and socio-psychological determinants of the delinquency of ruscism in the war against Ukraine. To achieve this goal, the following objectives have been set: (1) to consider the real picture of racist offences and to classify them; (2) to analyse the historical, political, ideological and legal preconditions for the delinquency of ruscism; (3) to identify the information-propaganda and socio-psychological sources of racist delinquency.

Materials and methods

In this study, which examines the institutional and socio-psychological determinants of the delinquency of ruscism in the war against Ukraine, a set of methods of scientific knowledge was used to comprehensively analyse this complex and multidimensional phenomenon. The axiological method was used to determine the essence and origins of ruscism ideology, its values and worldview. The study analysed the system of values that underpins ruscism – great-power chauvinism, imperialism, ethnic and religious intolerance. The study demonstrated its incompatibility with the basic values of modern civilisation – freedom, democracy, and respect for human rights.

To comprehensively cover the phenomenon of ruscism, a set of methods of scientific knowledge was used. Comparative analysis has revealed the typological affinity of ruscism with other totalitarian ideologies of the twentieth century, while preserving its identity, determined by the specifics of Russian historical development. The structural-functional approach was employed to address ruscism as a holistic system of interconnected elements (ideological postulates, propaganda narratives, organisational structures, repressive practices), which together ensure the reproduction of racist sentiments and the implementation of the Kremlin's aggressive policy. The critical method was employed to reveal the manipulative nature, internal contradictions and groundlessness of historical analogies of ruscism ideology. At the same time, the systemic analysis revealed a set of institutional factors (authoritarianism, lack of opposition, militarisation

of society) that create a favourable environment for the establishment of ruscism and have a destructive impact on the mass consciousness of Russians.

To study the socio-psychological origins of ruscism, the methods of psychological and cultural-historical anthropology within the theoretical framework of the analytical psychology concepts by C.G. Jung (2021) of the collective unconscious and archetypes, were used. The author analyses the archetypal images and mental structures of the Russian public consciousness that have become fertile ground for ruscist ideology – paternalism, sacralisation of the state, attraction to the "strong hand". The works of psychohistory were also involved the ideas of L. deMause (2002) on the impact of childhood trauma and collective fears on socio-political processes. The influence of the Russian intellectual tradition (pan-Slavism, Eurasianism, the concept of the "Russian world") on the justification of the Kremlin's neo-imperial claims and the formation of a great-power identity is studied from the standpoint of cultural and historical psychology in the tradition of L.S. Vygotsky and A.R. Luria (Yasnitsky, 2015).

The methods of social constructivism were used to gain a deeper understanding of the socio-psychological mechanisms of the production and spread of ruscist ideology. From this methodological perspective, ruscism appears as a discursive construct that is reproduced and legitimised through certain narrative practices and rhetorical strategies. The peculiarities of the content and structural organisation of texts and statements representing the ruscist worldview are investigated using discourse analysis. The study identified discursive figures and linguistic means aimed at sacralising the war, dehumanising Ukrainians, justifying war crimes. The author traces the continuity of these propaganda techniques from earlier examples of totalitarian ideology.

The methods of social constructivism were used to gain a deeper understanding of the socio-psychological mechanisms of the production and spread of ruscist ideology. This approach uses discourse analysis to identify characteristic narrative practices and rhetorical strategies used to sacralise the war, dehumanising Ukrainians and justifying war crimes. The cluster analysis was used to systematise the entire array of ruscist crimes by the criteria of nature, object and method of commission, identifying such main categories as premeditated murder, torture, kidnapping, sexual violence, deportation, attacks on civilian objects, use of prohibited weapons, looting, ecocide. This illustrated the diversity and systematic nature of the occupants' atrocities and confirmed the thesis that delinquency is organically rooted in the hateful essence of ruscism. The formal legal method is used to interpret the content of international humanitarian law and to qualify the criminal acts of racists following these norms. The method of legal hermeneutics was used to clarify the spirit and letter of the Rome Statute (1998) and the Geneva Conventions (1949) in the context of assessing violations of the laws and customs of war by Russia in Ukraine.

The research was based on statistical data, the results of sociological surveys, expert opinions, regulatory documents, official reports and analytical materials of international organisations. Data from the Office of the High Commissioner for Human Rights (2023), the National Police (Peryn, 2023), and the Tribunal for Putin (T4P) initiative (Statistics of the T4P…, 2024) were used to assess the scale and nature of racist crimes against the civilian population of Ukraine. The relevant provisions of the Rome Statute (1998) and the Geneva Conventions (1949) were analysed to qualify these crimes from the point of view of international law, Conventions on Prohibitions or Restrictions on the Use of Certain Conventional Weapons (2003) and other international legal acts.

Results

A complete picture of ruscist offences and their classification. One of the most serious aspects of Russian full-scale aggression against Ukraine has been the massive and systematic crimes against civilians, which by their nature, scale and brutality have no precedent in modern European history. According to the Office of the High Commissioner for Human Rights (2023), as of 7 May 2023, at least 23,606 civilian casualties have been recorded as a result of the Russian invasion, including 8,791 killed and 14,815 injured (Fig. 1).

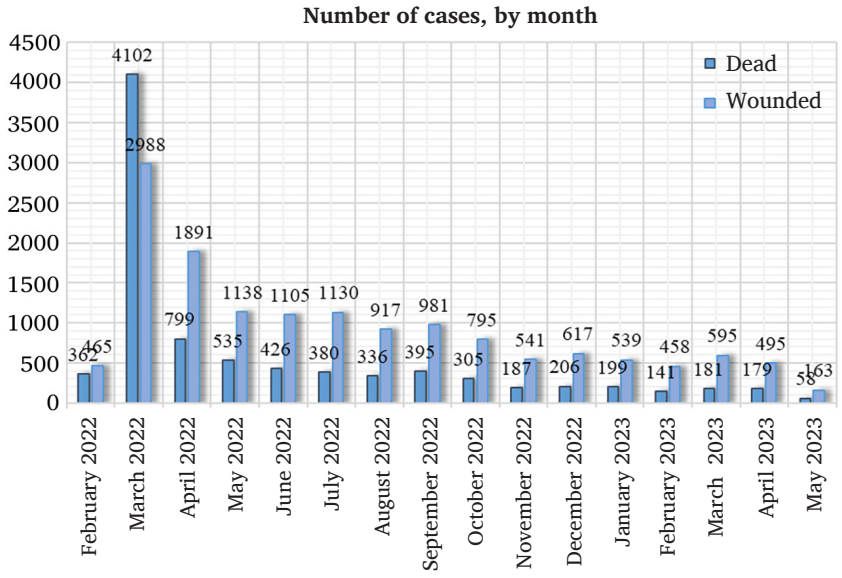

Figure 1. Civilian deaths and injuries according to the United Nations (UN) as of 8 May, 2023
Source: compiled by the author based on Office of the High Commissioner for Human Rights (2023)

The figures in Figure 1 reflect only the tip of the iceberg, as the actual number of victims may be many times higher due to the impossibility of obtaining complete information from the temporarily occupied territories and areas of active hostilities. From the beginning of the full-scale invasion on 24 February 2022, the Russian invaders have launched a campaign of terror against the civilian population of Ukraine, resorting to a wide range of criminal acts, each of which constitutes a gross violation of international humanitarian law. One of the most widespread and shocking practices was the mass murder of civilians, which was accompanied by cruelty and cynicism. As noted by V. Polishchuk (2023), in every settlement that resisted the occupants, there were shootings, executions, torture and abuse of defenceless people. A striking example was the Bucha district in the Kyiv region, liberated in April 2022, where more than 420 civilians died. The bodies of tortured people with traces of violent death were lying in the streets, in houses, and yards. Cynicism was manifested in the actions of the occupants before the retreat – according to eyewitnesses, Russian soldiers organised a "safari", shooting men of military age in the back of the head. These atrocities were a shock to the entire civilised world and unequivocal evidence of the genocidal nature of the aggressor's actions.

In addition to direct killings and torture, the Russian occupants resort to the practice of enforced disappearances and abductions. According to the National Police (Peryn, 2023), since the beginning of the full-scale invasion, more than 8,000 cases of enforced disappearance of Ukrainian citizens have been registered, the vast majority of which took place in the temporarily occupied territories. These crimes constitute a violation of Article 7(1)(i) of the Rome Statute (1998), which qualifies enforced disappearances as a crime against humanity. In addition, kidnapping is covered by Articles 147 and 438 of the Criminal Code of Ukraine (2001). Another form of crime against civilians that underscores the genocidal nature of the occupier's actions is the abduction and forced deportation of Ukrainian children to Russia under the guise of "evacuation" or "rehabilitation". According to the Children of War (n.d.), as of 9 May 2024, there were 19,546 children forcibly taken to Russia in the databases. 388 children were returned, the fate of the rest remains unknown. Abduction of children is a grave violation of the Convention on the Rights of the Child (1989), Geneva Conventions (1949), Article 8(2)(a)(vii) of the Rome Statute (1998) (unlawful deportation and displacement). The Criminal Code of Ukraine (2001) qualifies these actions under Article 438, and in the case of orphans and children deprived of parental care, also under Article 169 (illegal actions regarding adoption).

A different side of Russian war crimes in Ukraine is the practice of destroying civilian infrastructure, which not only poses a direct threat to human life but has also acquired the character of ecocide. Between 24 February 2022 and 14 May 2023, according to the T4P initiative alone (Statistics of the T4P…, 2024), 17,080 cases of shelling of residential buildings, 2,884 attacks on shops, factories and other business facilities, 1,393 attacks on educational institutions, 418 attacks on hospitals were recorded, as shown in more detail in Table 1. Large-scale destruction of civilian objects that have no military significance is a violation of several articles of the Rome Statute (1998), in particular art. 8(2)(a)(iv) – mass destruction of property not justified by military necessity; art. 8(2)(b)(ii) – intentional attack on civilian objects; art. 8(2)(b)(ix) – intentional attack on buildings dedicated to education, religion, art, science or charity.

Table 1. Targets of attack according to T4P data as of 14 May, 2023

No.	Losses	Number of cases
1	Residential buildings	17,080
2	Shops, factories and other business facilities	2,884
3	Vehicles	2,137
4	Educational institutions	1,393
5	Civil infrastructure facilities	1,264
6	Hospitals	418
7	Government buildings	415
8	Farmland, forests	381
9	Transport infrastructure	359
10	Entertainment venues	317
11	Temples	252
12	Historical sights	147

Source: compiled by the authors based on Statistics of the T4P war crimes database (2024)

The use by the occupation forces of means of warfare prohibited by international humanitarian law is worth highlighting. Russian invaders used cluster munitions, incendiary and phosphorus weapons, and launched ballistic and cruise missiles at densely populated areas in Ukraine (Khmelnytska, 2022). These acts constitute war crimes under Article 8(2)(b)(xx) of the Rome Statute (1998) (use of weapons, ammunition and equipment and methods of warfare of a nature to cause superfluous injury or suffering or to have indiscriminate effects). In addition, they violate Conventions on Prohibitions or Restrictions on the Use of Certain Conventional Weapons (2003), Protocol III thereto, and the Convention on Cluster Munitions (2008). Neither Russia nor Ukraine is a party to the Convention on Cluster Munitions (2008). At the same time, the use of cluster munitions in armed conflicts is regulated by international humanitarian law, in particular the provisions of Additional Protocol I to the Geneva Conventions (1949), which prohibit indiscriminate attacks and attacks likely to cause excessive harm to the civilian population concerning the expected military advantage.

Although both sides of the conflict *de facto* use cluster munitions, the nature and method of their use differ. Ukraine has committed itself to partner countries to use

the provided cluster weapons exclusively against legitimate military targets and only in cases of extreme necessity and in compliance with the principle of proportionality (Press gaggle by press…, 2023). Instead, Russia has systematically and indiscriminately used cluster munitions in populated areas (Segura, 2024), in violation of fundamental norms of international humanitarian law. In particular, there are numerous known use cases of Russian Iskander intermediate-range ballistic missiles and "Smerch" and "Uragan" multiple-launch rocket systems with cluster warheads to strike densely populated urban areas in Kharkiv (Ukraine: Cluster munitions launched…, 2022), Odesa (Segura, 2024), Mykolaiv (Ukraine: Cluster munitions repeatedly…, 2022), Kramatorsk (Death at the station…, 2023) and other cities. These actions resulted in massive civilian casualties and significant damage to civilian infrastructure.

The indiscriminate nature of the attacks and their unjustified military necessity distinguish the Russian tactics and qualify the use of cluster weapons by the aggressor as a war crime. Indeed, Article 8(2)(b)(xx) of the Rome Statute (1998) expressly prohibits the use of weapons of a nature that causes excessive injury or suffering or that is indiscriminate in effect, in violation of the principle of proportionality. In addition, indiscriminate attacks with cluster munitions against civilians and objects violate several other provisions of the Rome Statute (1998), including:

- Article 51(4) of Additional Protocol I defines indiscriminate attacks as those not directed against specific military objectives; employing methods or means of warfare which cannot be directed against specific military objectives; or employing methods or means of warfare whose effects cannot be limited.
- Article 51(5)(b) of Additional Protocol I prohibits attacks on military objectives located in populated areas unless they are military objectives and civilian casualties are not disproportionate to the expected military advantage.
- Article 8(2)(e)(i) of the Rome Statute (1998) prohibits the intentional directing of attacks against the civilian population as such or against individuals not taking a direct part in the hostilities.

Thus, it is the indiscriminate, disproportionate and unjustified use of cluster munitions by Russia that distinguishes these actions as war crimes under international humanitarian and criminal law. Bringing those responsible for these crimes to justice through national and international judicial institutions should be one of the elements of restoring justice and international law and order.

Sexual violence against women, men and children in the occupied territories has become a horrific practice of the invaders. As reported by the Verkhovna Rada Commissioner for Human Rights Lyudmyla Denisova (In Ukraine, 400 complaints…, 2022), as of early May 2022, more than 400 cases of rape had been registered in 8 regions. However, the actual number of victims is possibly ten times higher, as victims of sexual violence rarely report. These crimes fall under Article 8(2)(b)(xxii) of the Rome Statute (1998), which prohibits rape, sexual slavery, forced prostitution and other forms of sexual violence. At the national level, the acts are classified under Article 152 (rape), Article 153 (sexual violence), Article 156 (corruption of minors) of the Criminal Code of Ukraine (2001). The systematic looting of the occupied territories was an example of a blatant disregard for international law. The scale of the looting is evidenced by the fact that according to the official data of the T4P initiative (Statistics of the T4P…, 2024), there are 775 cases of looting of settlements alone. These actions are classified under Article 438 of the Criminal Code of Ukraine (2001) (looting as a violation of the laws or customs of war), as well as Article 8(2)(b)(xvi) of the Rome Statute (1998) – looting of a city or town.

Another dimension of the occupier's criminal activity was the destruction of the natural environment and ecological systems, which poses a threat of a national and international environmental catastrophe. The explosions of fuel depots, attacks on critical infrastructure, and the flooding of mines in Donbas have led to the release of hazardous substances into the soil, water, and atmosphere, and the death of flora and fauna. According to Article 441 of the Criminal Code of Ukraine (2001), mass destruction of flora or fauna, and poisoning of the atmosphere or water resources is classified as ecocide. At the same time, Article 8(2)(b)(iv) of the Rome Statute (1998) prohibits attacks that are likely to cause extensive, long-term and serious damage to the natural environment. In general, the entire array of unlawful acts committed by Russian troops on the territory of Ukraine against civilians and objects can be qualified under national law as violations of the laws and customs of war (Article 438) (Rome Statute…, 1998). In the international legal framework, these crimes fall within the definition of war crimes and crimes against humanity under the Rome Statute (1998). The complex and systematic nature of the occupier's criminal actions indicates that they are not the excesses of the perpetrators, but part of a planned state policy, the goal of which is the destruction of the Ukrainian nation.

Unprecedented measures are being taken in Ukraine and around the world to ensure a proper legal response to the crimes of the Russian invaders. National and international mechanisms for recording and investigating war crimes have been established, such as the Joint Investigation Team, the Independent International Commission of Inquiry on Violations in Ukraine, the United Nations Human Rights Council Special Commission on Human Rights, and others. At the national level, the prosecutor's office, police, and security agencies investigate crimes. Thousands of criminal proceedings have been opened over violations of the laws and customs of war, war crimes, and crimes against humanity. However, much more powerful tools are needed to bring the perpetrators to real accountability and prevent the aggressor's impunity, such as a special tribunal to try war crimes and the crime of aggression. The creation of this accountability mechanism should be a top priority for the international community.

Thus, the crimes of the Russian armed forces and the political leadership of the aggressor country against the civilian population of Ukraine are unprecedented in their scale and brutality and constitute a violation of the fundamental principles of international humanitarian law. By their nature, these unlawful acts qualify as war crimes, crimes against humanity and the crime of genocide, which entail individual criminal liability of perpetrators and officials following international criminal law. Bringing to justice the direct perpetrators of crimes and those who committed crimes in their official capacity, including the highest military and political leadership, through the establishment of a special international tribunal should become a moral and legal imperative of civilised humanity and a warning to potential aggressors in the future. Without this, justice cannot be won, and the rule of law cannot be restored.

Historical, political, ideological and legal prerequisites for the delinquency of ruscism. Over the centuries, Russia has developed an aggressive, expansionist paradigm that views neighbouring peoples, including Ukrainians, not as sovereign nations but as objects of domination and assimilation. This paradigm was manifested in both practical policies dominant ideological attitudes and legal doctrines. The historical basis for Russian aggression against Ukraine was a long process of forming an imperial identity based on the ideas of exclusivity, messianism and "land-gathering". According to Ukrainian historians O.M. Sytnyk and Y.M. Balanovsky (2022), the origins of Moscow's expansionist aspirations date back to the times of Kyivan Rus, whose heritage Moscow princes began to appropriate as early as the twelfth century. Imperial ambitions became especially pronounced after the fall of Byzantium in 1453, when the concept of "Moscow – the Third Rome" was established, proclaiming the divinely chosen nature of the Moscow Kingdom as the last stronghold of true faith. This concept justified territorial conquests under the pretext of "defending Orthodoxy".

During the 16th and 19th centuries, the Moscow Kingdom, and later the Russian Empire, rapidly expanded through the conquest and incorporation of neighbouring nations. The seizure of Ukrainian lands, which began with the Pereyaslav Rada in 1654, was accompanied by the systematic suppression of statehood and autonomy aspirations, Russification, and the eradication of the historical memory of Ukrainians. The defeat of the Zaporozhian Sich in 1775 and the enslavement of the Ukrainian peasantry became a symbol of Russian despotism. In the nineteenth century, the ethnic identity of Ukrainians was denied at the official level, and the Ukrainian people were proclaimed the "Little Russian branch" of the triune Russian people (Kresin, 2020; Sytnyk & Balanovsky, 2022). The brutal suppression of any manifestations of free thought or national identity emphasised the repressive nature of Russian imperialism and its inseparability from the practice of state terror. The imprisonment of Taras Shevchenko for anti-authoritarian poetry, the Valuev Circular of 1863, and the Ems Decree of 1876, which banned the use of the Ukrainian language, are telling examples. These measures were aimed at levelling the cultural identity of Ukrainians as a separate people, eliminating the historical memory of the state's past and preventing the development of a national movement (Remy, 2007).

After the Bolshevik coup of 1917 and the establishment of the communist regime, the continuity of aggressive imperialism persisted, despite the slogans of proletarian internationalism. As the British historian L. Rees (2022) rightly noted, despite the declarative condemnation of "tsarism", Soviet leaders unconditionally followed the great-power policy of their predecessors. The creation of the Union of Soviet Socialist Republics (USSR) was the reincarnation of the Russian Empire on a new ideological basis. It is noteworthy that even the formally proclaimed principle of national self-determination of the Union republics was brutally trampled upon by the Bolsheviks during the bloody suppression of the Ukrainian People's Republic, the subsequent repression of "Ukrainian bourgeois nationalism" and the famine genocide of 1932-1933 (Farmer, 1977). Later, Soviet national policy combined demonstrative "rooting" and glorification of "friendship of peoples" with further Russification, levelling ethnic differences and discrimination against non-Russian peoples, in particular in education, culture and the personnel sphere. The main ideological construct was the formation of a "new historical community – the Soviet people" (De Stefano, 2023), which *de facto* meant assimilation into the Russian-speaking community and the displacement of national identities. The systematic eradication of the historical memory of Ukrainians was accompanied by large-scale falsifications of history, such as the appropriation of ancient Russian heritage by Russia and the silencing or distortion of national liberation struggle cases. Thus, the Bolshevik regime ensured the continuity of the Russian imperial paradigm, adapting it to new realities. Overtly racist and great-power concepts were complemented by quasi-internationalist rhetoric and more sophisticated methods of assimilation. However, the goal was to deprive Ukrainians of their right to identity, history and statehood (Boele *et al.*, 2020).

The collapse of the USSR in 1991 and the restoration of state independence by the post-Soviet republics was a triumph for national liberation movements and a heavy defeat for the supporters of the "one and indivisible" empire. In Russia, the successor to the USSR, this trauma has caused an acute identity crisis. Nostalgia for the Soviet past and imperial revanchism are defining features of both public sentiment and political elites (Boele *et al.*, 2020). Since Putin came to power, the authoritarian regime has been rapidly reincarnated and the imperial paradigm has been restored, this time based on the Russian World ideology. From the very beginning of his rule, Putin began to systematically dismantle the sprouts of democracy, curtail political freedoms and persecute the opposition, creating conditions for unlimited personal power. At the same time, the foreign policy aimed at restoring Russian hegemony in the post-Soviet space became increasingly aggressive (Zahid, 2023). Furthermore, Russia's foreign policy under Putin's presidency is based on the Primakov doctrine (Delong, 2020). This doctrine, formulated in 1990, envisaged the restoration of Russia's status as a superpower, countering the unipolar world order under the auspices of the United States, multi-vectorism in international relations and the establishment of Russia's exclusive sphere of influence in the post-Soviet space. As the Polish researcher M. Delong (2020) notes, after Putin came to power, the line set by Primakov was pursued by his successors, primarily Igor Ivanov and Sergey Lavrov. The main directions and assumptions of his concepts are still repeated in official documents articulating Russia's security and defence doctrine (Delong, 2020).

Thus, the Primakov Doctrine has become a guiding principle for Putin's foreign policy, explaining Russia's desire to dominate the former Soviet Union, its confrontational attitude towards the West, and its willingness to use force to achieve its goals. An integral part of it is the attitude to Ukraine as a sphere of Russia's "privileged interests" and the non-recognition of its right to a sovereign geopolitical choice. This results in Russia's aggressive policy aimed at undermining Ukraine's statehood and subjectivity, ranging from political and economic pressure to direct military aggression. In general, the determination of the conceptual foundations of the Primakov Doctrine describes Russia's strategic aspirations and behaviour in the international arena. At the same time, this does not absolve the Putin regime of responsibility for its deliberate slide into neo-imperialism and crimes against international law committed for the sake of great-power ambitions.

The first manifestation of neo-imperial encroachment was the failed attempt to interfere in the 2004 elections in Ukraine, which led to the Orange Revolution (Strycharz, 2022). This defeat was a personal trauma for Putin, who saw Ukraine as an existential threat to his regime. Since then, undermining Ukraine's statehood and obstructing its European integration has become the Kremlin's top priority. The methods ranged from economic blackmail and information operations to direct aggression. The neo-imperial aggression culminated in Russia's armed attack on Ukraine in 2014, which included the annexation of Crimea and the outbreak of war in Donbas (Sutyagin, 2022). These acts were a gross violation of international law as enshrined in the United Nations Charter (1945), The Helsinki Final Act (1975) and the Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons (Budapest Memorandum) (2014) which guarantee the sovereignty and territorial integrity of states. In particular, the annexation of Crimea was a direct violation of Article 2 of the United Nations Charter (1945), which prohibits the threat or use of force against the territorial integrity of any state. Incitement to separatism and the deployment of troops in Donbas is an act of aggression that falls under Article 3 of the Definition of Aggression (General Assembly Resolution…, 1974).

The violent rejection of the territories of a neighbouring state was accompanied by an appropriate ideological design. The annexation of Crimea was justified by the theses of "historical justice" and "sacred significance" of the peninsula for Russia (Borgen, 2015). The aggression in Donbas was masked by a cynical mythology about "protecting the Russian-speaking population from the oppression of the Kyiv junta" (Sytnyk & Balanovsky, 2022). These propaganda narratives highlighted the openly neo-imperial, revanchist nature of Russia's policy. The official ideology of Putinism eclectically combines great-power chauvinism with conservative clerical rhetoric about Russia's special civilizational mission and its confrontation with the "decaying West" (Kuzio, 2022). The basic concept is the "Russian world" doctrine, which justifies Moscow's right to dominate all territories with a Russian-speaking population. It is a modification of the great-power slogan "Mother Russia will gather her lands". Accordingly, to legitimise the seizure of Ukrainian territories, Russian propaganda has again resorted to the old theses about the "unity" of the Russian and Ukrainian peoples, manipulatively interpreting the concept of "brotherhood" as synonymous with the subordination and inferiority of Ukrainians (Sytnyk & Balanovsky, 2022; Tripathi & Karlekar, 2024).

An integral component of the aggressive ideology was the constant production of the image of the enemy, the stirring up of anti-Western and anti-Ukrainian hysteria through controlled media. Ukraine has been artificially demonised as a failed state, a haven for 'neo-Nazis and Banderites', and a foothold for the North Atlantic Treaty Organisation's (NATO) aggressive plans against Russia. These propaganda clichés created an atmosphere of hatred in Russian society and created the illusion of legitimacy of aggression against a neighbouring country (Zahid, 2023). A natural continuation of this policy was the full-scale invasion of Ukraine by Russia on 24 February 2022. This war is the culmination of Russian centuries-long imperial expansion and its outright desire to destroy the Ukrainian state and identity. It is a gross violation of the fundamental norms of international law that prohibit aggressive war and guarantee the right of people to self-determination. Russian invasion falls within the definition of the crime of aggression under Article 8 of the Rome Statute (1998). It is worth emphasising that the aggression against Ukraine was ideologically sanctioned at the highest state level of Russia. Putin's opus "On the Historical Unity of Russians and Ukrainians" (2021) is illustrative, denying the very existence of a separate Ukrainian nation and proclaiming Ukrainian statehood as "anti-Russia" artificially created by the West (Reid, 2022). The war of aggression is cynically justified by the need to "denazify" and "demilitarise" Ukraine. The destruction of Ukrainian identity, language and culture is glorified as the "liberation" of Ukrainians from nationalist "enslavement" and "return to the bosom of Russian civilisation". Thus, the concept of "protecting Russian-language speakers" has been transformed into the concept of complete subordination of Ukraine and the elimination of its subjectivity (Dzyublenko, 2023).

The comprehensive support for the aggression by the political and military leadership of Russia, the media and the majority of society shows that it is not an excess, but a natural product of the centuries-old imperial paradigm (Boyd-Barrett, 2023). Ignoring international law, denying the right of peoples to self-determination, demonising national liberation movements and justifying war crimes – all of this is based on legal doctrines and ideological concepts that have been systematically produced in Russia. As noted in the Resolution of the Verkhovna Rada of Ukraine. On the Statement of the Verkhovna Rada of Ukraine No. 3078-IX "On the Use of the Ideology of ruscism by the Political Regime of the Russian Federation, Condemnation of the Principles and Practices of Ruscism as Totalitarian and Hateful" (2023), the signs of ruscism as a totalitarian, hateful ideology include:

- self-aggrandisement of Russia and Russians through violent oppression and/or denial of the existence of other peoples;
- systematic violation of generally accepted principles and norms of international law;
- the use of prohibited methods of warfare and the systematic commission of war crimes.

Thus, delinquency is not an accidental but an organic and natural outgrowth of this ideology. The current war against Ukraine has become a litmus test that has demonstrated the criminal nature of the Putin regime as a direct heir to the great-power aggressive policy of Russian imperialism. The unprecedented crimes against humanity, war crimes and acts of genocide committed by the Russian occupiers are a continuation of the systemic practice of state terror and the eradication of the national identity of peoples who have suffered from imperial expansion for centuries. Legal nihilism, disregard for human life, and denial of the sovereign right of other nations to exist are the constants that have defined Russia's policy in the past and that have reached their peak today in the war of aggression against Ukraine.

The inability of Russia to exist in the paradigm of international law and civilised relations between states is derived from its imperial nature. As Ukrainian diplomat D. Kuleba (2022), despite the collapse of the USSR, the Russian elites and society "retain and dominate a typically imperial, chauvinistic worldview" that "requires constant territorial expansion, conquest and control over neighbours". In Putin's Russia, the cult of violence and militarism have become pervasive, and aggression against other nations has become the

regime's main tool for self-assertion. It is no coincidence that Russian propaganda glorifies the atrocities of its troops in Ukraine, and the mass consciousness justifies any crime for the sake of the coveted "revival of the empire". Thus, the delinquency and criminality of ruscism is a direct consequence and embodiment of its man-hating totalitarian essence, rooted in the centuries-old tradition of Russian imperialism. Systematic violations of international humanitarian law, war crimes and crimes against humanity are not failures, but the norm for a political regime and army guided by a neo-imperial ideology of revanchism, expansionism and disregard for the sovereignty of other states. In this system of coordinates, crime is transformed into valour, and sadism into a manifestation of patriotism. However, even the most brutal repression and the most cynical lies cannot stop the natural desire of people for freedom. Ukraine's successful resistance to the Russian invasion and the unprecedented consolidation of the Ukrainian nation around the idea of defending its statehood have demonstrated the collapse of the imperial paradigm and the illusory nature of Moscow's neocolonial encroachments. At the same time, the war has become a powerful catalyst for the transformation of the global security system and international law (Kotsur, 2023). It demonstrated the inevitability of punishment for the crime of aggression, proved the need to strengthen preventive mechanisms against revisionist states and increased responsibility for violations of international humanitarian law.

A key element of the inevitable defeat and condemnation of ruscism must be the prosecution of the political and military leadership of Russia and the direct perpetrators of war crimes and crimes against humanity. The establishment of a special international tribunal for the crime of aggression against Ukraine has already become the subject of active discussion in the UN and other international organisations. The implementation of this initiative will send a powerful signal to potential aggressors and ensure that the tragedy of the Ukrainian people does not happen again in the future. The fundamental principle of international law – *pacta sunt servanda* (treaties must be honoured) – can only be effective if there is inevitable punishment for those who brazenly violate it. An equally important task is to comprehensively delegitimise and condemn the ideology of ruscism as a hateful totalitarian doctrine incompatible with the values of civilised humanity. Just as the criminal nature of Nazism and fascism was once debunked, so too is the inevitable global historical verdict of ruscism, which has compromised and discredited itself in the eyes of the international community with its atrocities in Ukraine. Only by realising the perniciousness of the imperial paradigm will Russian society be able to free itself from the "Russian world" and embark on the path of democratic development and peaceful coexistence with its neighbours. Until this happens, the international community must make every effort to contain, isolate and demilitarise Russia as a state sponsor of terrorism, which poses an existential threat not only to Ukraine but to all of humanity.

In summary, it should be noted that the delinquency and criminality of ruscism is a direct result and quintessence of Russian imperialism, which for centuries has systematically violated international law, human rights and the values of civilised coexistence of peoples. This ugly phenomenon represents the historical and logical conclusion of more than 400 years of state terror, expansionism and the oppression of entire nations in the name of building an oppressive "prison of nations". Given the scale of the crimes committed and the threat to the very existence of the international legal order, the condemnation and punishment of ruscism, as well as the eradication of its ideological and institutional foundations, is a categorical moral and legal imperative of our time.

Information-propaganda and socio-psychological sources of ruscism's delinquency formation. Information and propaganda activities and socio-psychological factors play an extremely important role in shaping the delinquent consciousness and behaviour of racist representatives. It was targeted propaganda and the corresponding ideological processing of the population that created an atmosphere of hatred, xenophobia and psychological readiness for the most serious crimes against humanity in Russian society. The main way of spreading ruscist ideology is a powerful state propaganda machine, which includes Kremlin-controlled media, an army of bloggers and trolls on the Internet, cultural, scientific and pseudo-scientific figures, politicians and public figures (Tsyrenzhapova & Woolley, 2021). According to research, Russia is the world leader in the use of disinformation and manipulation, being responsible for 62% of interference in the internal affairs of other countries (Pivtorak *et al.*, 2023). Russian propaganda penetrated the information space of many countries long before the full-scale invasion of Ukraine.

It is on the distortion of reality and substitution of concepts that the entire system of propaganda support for the war is based on. Since 2014, the Russian media have consistently demonised Ukraine as a "failed state", a "haven for neo-Nazis", a "US puppet". The real invasion is cynically referred to as a "special operation", the seizure of foreign territories as "protection of Russian speakers", and war crimes and genocide as "saving the fraternal people from the Banderites". The propaganda narrative about Ukraine as an "artificial state" and "primordially Russian lands" that threatens the very existence of Russia was widely circulated. All this created in the mass consciousness of Russians a sense of existential threat from the neighbouring country and a psychological readiness to destroy it (Zahid, 2023). The Russian propaganda machine uses a wide arsenal of mind manipulation technologies: from falsification of facts and emotional agitation to outright intimidation and dehumanisation of the enemy. The emphasis is on speculating on the archetypes of "threat", "hostile environment" and "stronghold", which are intuitively close to the authoritarian mentality (Tsyrenzhapova & Woolley, 2021). Even the most odious propaganda clichés, such as "denazification" or "liberation" of Ukraine, are based on appeals to the sacrifice, heroism and messianism of the "defenders of the Russian world". In general, Russian propaganda is purposefully removing any moral and legal safeguards against aggression and war crimes in the eyes of Russian citizens.

One of the main directions of racist propaganda is to justify the crimes of the occupiers in Ukraine and to shift responsibility to the victim of aggression. The general logic is to legitimise the thesis that "we were forced to do this because it was impossible to do otherwise" (Zahid, 2023). For this purpose, narratives about "Ukrainian Nazis", "persecution of Russian speakers", "biolabs", "nuclear weapons" are actively used (Pivtorak *et al.*, 2023). As a result, in the minds of the Russian public, a picture is formed of a kind and peaceful Russia, which the cruel Ukrainian Nazis, on the orders of the insidious West, have brought to such a state that it is forced

to "defend itself" and "restore justice", without hesitation. In this way, the aggressor and the victim are inversed, and mass war crimes are presented as a forced response to someone else's imaginary crimes. In turn, this entire propaganda construct is based on socio-psychological and pseudo-moral attitudes deeply rooted in the Russian consciousness. First, it is about great-power chauvinism, imperial complexes, totalitarian thinking and lack of legal consciousness. Aggressive propaganda works where there is a suitable ideological and value-based ground for it. As C.G. Jung (2021) noted, "individuals become a crowd when they are overwhelmed by a common idea, when their conscious personalities are supplanted by a common unconscious".

Numerous historical traumas and mythologies have become this collective unconscious in Russian society, primarily about Russia's "greatness" and "chosenness", its "historical right" to dominate other nations. The cultivation of the image of a "besieged stronghold", the "sacred borders" of the empire, the "superiority" of Russian civilisation over the "rotten" West have served for centuries to justify the regime's foreign expansion and internal crimes. These archaic notions did not disappear after the collapse of the USSR but rather gained a new dimension with the rise of Putin (Sytnyk & Balanovsky, 2022; Zahid, 2023). The Kremlin's historical policy aimed at whitewashing the crimes of the totalitarian past and rehabilitating imperial ambitions plays a particularly destructive role in shaping racist consciousness. According to historian L. Rees (2022), "Vladimir Putin is responsible for such a positive attitude towards Stalin in modern Russia". The glorification of the Soviet "great past" became a way of compensating for the trauma of the collapse of the USSR and generating revanchist sentiments. As a result, an entire generation has grown up in Russia, whose consciousness has been poisoned by chauvinistic propaganda, nostalgia for a "strong hand" and hatred of the West and Ukraine. At the same time, other factors that created the psychological basis for the formation of ruscist criminal behaviour should not be underestimated. First, it is the influence of the criminal subculture, which has deep historical roots in Russia. The criminal hierarchy, the cult of power, the opposition of "friends and foes", sadism and disregard for the rule of law have organically blended into the "traditional values" of Putinism. It is not without reason that the Russian occupation forces are particularly cruel, cynical and prone to atrocities against the civilian population. The practice of conscripting prisoners convicted of serious crimes and promising pardons in exchange for participation in the war of aggression is also indicative. Sadists and rapists have been given a "licence to kill" under the guise of the propaganda thesis of "protecting Russian-language speakers" (Harrison, 2023).

All these manifestations of war crimes committed by Russia and crimes against humanity in Ukraine are a direct violation of the Geneva Conventions (1949), which prohibit all violence, torture, and cruel and degrading treatment against civilians and prisoners of war (Art. 3, 13, 27, 32). The actions of the Russian occupiers fall under the definition of war crimes under Article 8 of the Rome Statute (1998) and crimes of genocide under Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide (1948). In particular, the deportation of civilians and the forced displacement of children is a gross violation of Article 49 of the IV Geneva Conventions (1949) and Article 7 of the Rome Statute (1998). Furthermore, Putin and Russian Children's Ombudsman Lvov-Belova were notified of suspicion of the deportation of Ukrainian children (Situation in Ukraine…, 2023). At the same time, all the anti-Ukrainian hysteria in the Russian media fully falls within the definition of incitement to genocide under Article 3 of the Convention on the Prevention and Punishment of the Crime of Genocide (1948) (direct and public incitement to commit genocide). Thus, the information environment and mass consciousness in Russia are imbued with narratives and attitudes that not only legitimise but glorify delinquency and crime at the level of state policy. Long before the invasion, Russian propaganda had shaped the image of Ukraine as an existential threat, which provided moral and psychological justification for any crimes for the sake of Russia's "survival" in the confrontation with the "insidious West". Archaic imperial mythologies, the cult of power and disregard for international law, multiplied by cynical distortion of reality and substitution of concepts, have turned Russian society into a silent accomplice to aggression.

It would be a mistake to consider ruscism as a strange anomaly or a consequence of propaganda. Its criminal potential is deeply rooted in the social psychology and historical experience of Russian society. Centuries of despotism, totalitarian terror, apologetics for violence and disregard for the rule of law have created a distorted picture of the world in the mass consciousness, in which "greatness" justifies any crime. Therefore, it is impossible to overcome the delinquency of ruscism without understanding its deep historical, cultural and mental origins. Only through the decommunisation, de-Stalinisation and derussianization of Russian society, through its return to the coordinate system of international law and civilised values, is its moral recovery possible. Until this happens, the aggressive and criminal nature of ruscism will pose a deadly threat not only to Ukraine but to all of humanity.

Discussion

The study comprehensively covered the institutional and socio-psychological determinants of ruscist delinquency in the context of Russia's aggression against Ukraine. The findings demonstrate the systemic nature of ruscist crimes, their roots in the historical tradition of Russian imperialism, the totalitarian nature of the Putin regime, and the targeted propaganda policy of dehumanising Ukrainians.

Comparing the results of this study with the conclusions of R. Kwiecień (2022), it is possible to state the conceptual unity in the assessment of the Russian invasion of Ukraine as the most serious encroachment on the international security system and world order since the end of World War II. In both works, Russian actions are qualified as an unprovoked act of aggression against a sovereign state, which poses a direct threat to the fundamental principles of international law, such as the prohibition of the use of force, respect for territorial integrity, and non-interference in the internal affairs of other countries. The researchers agree that the brutality and audacity of the Kremlin's violation of peremptory norms of jus cogens requires a consolidated and decisive response from the international community to restore justice and prevent the recurrence of such crimes in the future. At the same time, this study, unlike R. Kwiecień, addresses the analysis of the socio-cultural and ideological basis of Russian aggression, considering it not as a situational excess, but as a natural manifestation of the Kremlin's neo-imperial,

expansionist policy, which is positively based on a centuries-old tradition of despotism, militarism and disregard for international law.

Another important aspect of the problem is the prospect of bringing Russia to justice for the crime of aggression within the existing mechanisms of international criminal justice, in particular, the International Criminal Court (ICC). This issue is addressed in the study by A. Salari and S.H. Hosseini (2023), who thoroughly analyse the ICC's ability to consider the crime of Russian aggression considering the current procedural restrictions and Russia's non-participation in the Rome Statute. The authors come to the disappointing conclusion that the ICC's jurisdiction over the crime of aggression is extremely limited, as the Court can only hear relevant cases against States Parties to the Statute or upon referral by the UN Security Council. These results coincide with the conclusions of this study that the existing international legal instruments are insufficient to comprehensively punish ruscism as a holistic criminal ideology and practice. However, while A. Salari and S.H. Hosseini address the problems of the ICC's jurisdiction, this study considers a wider range of possibilities for bringing the Putin regime to justice, including the prospects of creating a special international tribunal for Ukraine, following the example of the tribunals for the former Yugoslavia and Rwanda. Therefore, despite the acknowledgement of serious institutional limitations, this paper shows greater optimism about the international community's ability to find legal ways to punish the aggressor and restore justice.

Another dimension of the analysis of the phenomenon of ruscism is its consideration through the prism of internal political, ideological and socio-psychological determinants that determine the Putin regime's inclination to aggressive, expansionist policies in the international arena (Asadchykh *et al.*, 2024). This aspect of the problem was highlighted by J.J. Driedger (2023) in an analysis of the origins and manifestations of militarism in modern Russia, linking them to the deeply rooted authoritarian traditions of Russian statehood, Putin's personality cult, and a deliberate policy of militarizing public consciousness, imposing the image of a "hostile environment" and hegemonic claims to dominance in the region. These observations reveal significant overlaps with the findings of this study, which also traces the genetic link between ruscism and Russia's imperial heritage, emphasising the decisive influence of the ideology of neo-imperial revanchism and great-power chauvinism on the Kremlin's foreign policy. At the same time, unlike J.J. Driedger (2023), who focuses on the domestic political dynamics of the Putin regime, this study addresses the international legal dimension of the problem, in particular, the qualification of specific crimes committed by Russia in Ukraine in terms of the relevant norms of international humanitarian and criminal law. This ensures a systemic vision of ruscism as a holistic destructive phenomenon, whose criminal nature is manifested not only in external aggression but also in totalitarian practices within Russia itself.

A.G. Timofte (2023) significantly contributed to the discussion of the individual responsibility of the top political Russian leadership for the initiation and conduct of an aggressive war against Ukraine. The author thoroughly analyses the possible ways of bringing Putin personally to international criminal justice, considering the advantages and limitations of various institutional mechanisms – from national courts of European countries to the International Criminal Court and a hypothetical special tribunal for Ukraine. Based on a thorough legal analysis, A.G. Timofte concludes that the most realistic and effective option is still to establish a separate international tribunal on the model of the tribunals for the former Yugoslavia and Rwanda, which would ensure an impartial trial and inevitable punishment of Russia's top officials for the crime of aggression. These considerations conceptually coincide with the findings of this study, which also emphasises the urgency of establishing a special tribunal for Ukraine as a top priority of the international community in restoring justice and preventing the recurrence of similar crimes in the future. At the same time, despite the solidarity in recognising the need for personal responsibility of Putin and his entourage, this study considers this problem in the broader context of condemning ruscism as a hateful totalitarian ideology whose criminal manifestations are not limited to aggression against Ukraine but pose a global threat to the entire democratic world. Therefore, while A.G. Timofte (2023) focuses on the procedural aspects of prosecuting the crime of aggression, this study comprehensively delegitimises and dismantles the ideological foundation of ruscism as a prerequisite for preventing the recurrence of totalitarianism and imperialism.

Another dimension of the legal analysis of ruscist crimes is the qualification of specific acts of war crimes and crimes against humanity committed by the Russian occupation forces on the territory of Ukraine. This aspect was addressed by J. Geneuss and F. Jeßberger (2022), who analysed the facts of mass killings, torture, sexual violence, deportations, destruction of civilian infrastructure and other egregious violations of international humanitarian law by the Russian military. Based on a huge array of documented evidence, the authors convincingly argue that the atrocities of the occupiers fully fall within the definition of war crimes and crimes against humanity following the provisions of the Geneva Conventions of 1949 and the Rome Statute (1998). These conclusions are fully confirmed by the results of this study, which also emphasises the brutality, systematic nature and scale of the racist atrocities in Ukraine, qualifying them not only as war crimes but also as a deliberate policy of genocide against the Ukrainian people. At the same time, this study proposes to conceptualise these crimes in the context of the general human-hating nature of ruscism, considering them not as excesses of individual perpetrators, but as an organic manifestation of a racist, imperialist ideology that does not recognise the right of other nations to exist and self-determination.

The study of the information and propaganda dimension of Russian aggression against Ukraine is of utmost importance for the conceptual understanding of the phenomenon of ruscism. A valuable contribution to this discussion is made by S. Selvarajah and L. Fiorito (2023), who analyse the role of the media in shaping global public opinion on the war in Ukraine and the prospects for bringing Russia to international accountability. Based on the study of publications of influential Western media, it is possible to note the decisive influence of Russian propaganda on distorting the perception and assessment of events in Ukraine by the international community. In particular, the author emphasises the widespread attempts to relativize the Kremlin's responsibility for the aggression, to downplay the scale of Russia's war crimes, to impose the narrative of a "civil war" in Ukraine. These

findings reveal a significant overlap with the results of this study, which also identifies Russia's targeted disinformation policy as a key tool for legitimising aggression and avoiding responsibility for crimes committed. At the same time, while the analysis of S. Selvarajah and L. Fiorito (2023) focuses mainly on the external dimension of information warfare aimed at an international audience, this study addresses the destructive impact of Kremlin propaganda within Russia itself. Considering information manipulations as the main tool for generating mass support for the war against Ukraine in Russian society, this study interprets them as an integral part of the government's totalitarian control over society, without which the Putin regime's criminal aggression would be impossible in principle.

Considerable attention in the current scientific discourse is also paid to the discussion of optimal models of international criminal justice for the crime of Russian aggression against Ukraine. A notable milestone in this debate is the work of T. Dannenbaum (2022), which offers a comprehensive comparison of the legal and political arguments for and against various options for establishing a special tribunal, from the formation of a new body to the establishment of a tribunal by a coalition of states, following the example of the Nuremberg Tribunal or the Special Court for Sierra Leone. Having carefully weighed all the benefits and drawbacks, the author concludes that the optimal format in terms of legitimacy, effectiveness and practical feasibility would be to establish a tribunal based on a multilateral agreement of the States. This position finds full support in this study, which also considers the multilateral treaty model as the most viable option for ensuring the inevitability of punishment for racist crimes. At the same time, in addition to the arguments of T. Dannenbaum (2022) regarding the impartiality and procedural efficiency of such a tribunal, this study also emphasises its importance as an instrument of comprehensive moral and political delegitimization of ruscism – not only condemnation of personal crimes of the top leadership of Russia but also recognition of the criminal, hateful nature of the ruscist ideology itself.

An important contribution to the conceptualisation of the information and propaganda dimension of ruscism is made by D.I. Drugă (2023), who offers a systematic overview of the key themes and narratives of Russian propaganda aimed at justifying aggression against Ukraine. Based on extensive empirical material from the Russian media, the dominant motives of Kremlin disinformation, such as accusing Ukraine of "Nazism" and "genocide of the Russian-speaking population", claims of "American biolabs", "the threat of Ukraine's accession to NATO", "suppression of pro-Russian protests" were identified. Convincingly demonstrating the manipulative, propagandistic nature of these narratives, D.I. Drugă (2023) notes their key role in the ideological legitimisation of armed aggression and the dehumanisation of Ukrainians as a nation. These observations reveal many substantive overlaps with the findings of this study, which also treats the outlined propaganda narratives as the most concentrated expression of the hateful nature of racist ideology. At the same time, by examining specific themes and techniques of Russian propaganda, this study tries to fit them into the broader context of the neo-imperial ideology of the "Russian world", which uses information manipulation not situationally but systematically to substantiate its claims to regional hegemony.

An interesting addition to the analysis of the information dimension of the Russian-Ukrainian war is the article by J.E. Barnes (2022), which focuses on the intensification of the Kremlin's propaganda machine on the eve of the full-scale invasion of Ukraine in February 2022. Based on close monitoring of the Russian media, the author documents the rapid growth of disinformation, fakes, emotional manipulation and outright calls for aggression against Ukraine in the Russian public discourse. J.E. Barnes (2022) determined this propaganda campaign as a deliberate attempt to create an information basis for direct military invasion, mobilise public support by demonising Ukraine and fuelling hysteria regarding the "threat of NATO membership". These results are fully correlated with the findings of this study, which also identifies the information surge on the eve of 24 February as the tip of the iceberg of the Kremlin's ongoing anti-Ukrainian propaganda. At the same time, unlike J.E. Barnes (2022), who focuses on the immediate prehistory of the invasion, this study proposes to consider this propaganda campaign in the much broader temporal and conceptual context of Russia's information war against Ukraine, which has been systematically and consistently waged since 2014 as part of the Putin regime's overall neo-imperial strategy.

Finally, it is difficult to overestimate the heuristic value of the comprehensive case study of the Russian disinformation campaign during the war against Ukraine presented in the study by J. Mandić and D. Klarić (2023). Based on extensive empirical material on monitoring the information space, the authors provide a systematic analysis of the goals, means and consequences of the Kremlin's large-scale and well-coordinated information aggression aimed at undermining the legitimacy of Ukrainian statehood and destabilising Euro-Atlantic unity. Among the most destructive manifestations of information warfare, researchers rightly identify a massive flow of fake news, conspiracy theories, and distorted interpretations of events designed to justify aggression and demonise Ukrainians. These conclusions are fully confirmed by the results of this study, which also proceeds from the recognition of the systemic nature, ideological basis and expansionist goals of Kremlin propaganda. At the same time, in addition to the technological aspects of information aggression thoroughly analysed by J. Mandić and D. Klarić (2023) on the technological aspects of information aggression, this study offers a deeper conceptualisation of ruscism's propaganda activities as an integral part of its overall totalitarian nature. Whereas the above-mentioned authors limit themselves mainly to descriptive and functional analysis of specific cases, this paper aims to understand the phenomenon of racist propaganda in the context of the philosophy of totalitarianism as a fundamentally anti-humanistic worldview that cultivates hatred and violence and serves as a way for producing a "controlled consciousness" ready to commit the most serious crimes.

Summing up the above, it should be noted that the main results of the study logically fit into the modern scientific discourse of understanding ruscism as a holistic political, ideological and socio-cultural phenomenon, whose criminal essence is manifested both in aggression against Ukraine and in total control over Russian society. Comparison with the conclusions of leading scholars shows that the data obtained in the study significantly deepens the understanding of the institutional, ideological and socio-psychological origins of racist delinquency, revealing its historical pattern and systematic nature.

Conclusions

Offences of ruscism in the aggression against Ukraine have reached an unprecedented scale and barbarism. These include mass killings of civilians, torture, enforced disappearances, abductions, deportations of children, destruction of civilian infrastructure, use of prohibited weapons, sexual violence, looting and ecocide. By their nature, these crimes are classified as war crimes, crimes against humanity and acts of genocide under international humanitarian and criminal law. Their systemic nature indicates that they are not the excesses of the perpetrators, but part of a planned state policy aimed at destroying the Ukrainian nation.

The delinquency of ruscism has deep historical roots in the centuries-old tradition of Russian imperialism, expansionism and despotism. Over the centuries, an aggressive, invasive paradigm has been formed that views neighbouring peoples, including Ukrainians, as objects of domination and assimilation. After the Bolshevik coup of 1917, this paradigm took the form of Soviet totalitarianism, which, under the slogans of internationalism, continued its policy of Russification, eradication of national identities, and state terror. Putin's rise to power saw the reincarnation of the authoritarian regime and the restoration of the imperial ideology of the Russian world, which justifies Moscow's right to hegemony over the post-Soviet space. The annexation of Crimea and the outbreak of the war in Donbas in 2014, followed by the full-scale invasion in 2022, were the culmination of this neo-imperial aggression, which is a gross violation of fundamental international law.

Information and propaganda activities and socio-psychological factors played a decisive role in shaping the delinquent consciousness of ruscism. The Kremlin's powerful propaganda machine systematically produced a distorted picture of reality, narratives of hatred, xenophobia and demonization of Ukraine through controlled media, the Internet and cultural figures. This was based on the deeply rooted great-power chauvinism, imperial complexes, totalitarian thinking and lack of legal consciousness in the Russian mentality. The historical policy of whitewashing the crimes of the totalitarian past and reviving the cult of Stalin's personality had a particularly destructive impact. The propaganda systematically justified the "right" to aggression against Ukraine and legitimised any crimes to "protect Russian speakers" and confront the "insidious West". All of this has created an atmosphere of hatred in the mass consciousness of Russians and a psychological readiness to commit the most serious crimes against humanity. Thus, the delinquency and criminality of ruscism is a direct outgrowth and quintessence of Russian imperialism, which for centuries has violated international law, human rights and the values of civilised coexistence of peoples. Ukraine's successful resistance to the Russian invasion demonstrated the collapse of the neo-imperial paradigm and the criminal ideology of the Russian world. The condemnation and punishment of ruscism through the establishment of a special international tribunal, as well as the eradication of its ideological and institutional foundations, is a categorical moral and legal imperative of our time. Only through the demilitarisation, denazification and derussianization of Russian society is it possible to return it to the coordinate system of international law and civilised values.

This study has certain limitations. It is based primarily on data from open sources and does not exhaust the full range of historical, ideological and socio-psychological origins of ruscism. The study is limited in time and cannot consider all potential transformations of the Putin regime and Russian society. Nevertheless, the analysis lays the foundation for further understanding of the phenomenon of ruscism. Promising areas include studying the mechanisms for bringing the Putin regime to justice, strategies for derussianization of Russian society, ways to restore Ukraine, and understanding the lessons of the war for future international security. Without the delegitimization of ruscism as a totalitarian ideology, it is impossible to establish the principles of humanity, law and peaceful coexistence of peoples.

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Conflict of interest

None.

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Анотація. Актуальність дослідження інституційних та соціально-психологічних детермінант делінквентності рашизму в контексті агресії РФ проти України зумовлена безпрецедентним масштабом злочинів проти людяності, які чинять російські окупанти. Мета статті полягала у всебічному висвітленні історичних, політико-ідеологічних, юридичних, інформаційно-пропагандистських і соціально-психологічних чинників, що зумовлюють злочинну поведінку загарбників. Основні результати дослідження засвідчили, що злочини рашизму не є ізольованими ексцесами окремих виконавців, а закономірним породженням і квінтесенцією багатовікової традиції російського імперіалізму, який протягом тривалого історичного періоду систематично порушував фундаментальні норми міжнародного права, нехтував базовими правами людини та цинічно зневажав цінності цивілізованого співіснування народів. Делінквентність рашизму має глибоке історичне коріння, сягаючи своїм корінням в багатовікову традицію територіальної експансії, політичного деспотизму та безкарного державного терору, які століттями визначали характер російської держави. Сучасні прояви злочинності рашизму є органічним та закономірним продовженням неоімперської парадигми «русского мира», яка ґрунтується на великодержавному шовінізмі, відвертому презирстві до суверенітету та самобутності інших націй та обґрунтовує право Москви на домінування над сусідніми народами. Визначальну роль у продукуванні масової суспільної підтримки агресивної війни проти України відіграла потужна та розгалужена машина кремлівської пропаганди, яка через підконтрольні медіа та публічний дискурс систематично демонізувала й дегуманізувала український народ та легітимізувала в очах росіян будь-які звірства та злочини проти людяності під цинічним приводом «захисту російськомовного населення»

Ключові слова: воєнні злочини; великодержавний шовінізм; дезінформація; пропаганда ненависті; дегуманізація; масова свідомість

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Economic and legal aspects of the functioning of the IT sphere in the conditions of war

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Abstract. As of 2024, Ukraine has been enduring military aggression from the Russian Federation for over two years. This war has affected all aspects of the country's life, including the IT industry. In such circumstances, it is essential to evaluate the losses incurred by the digital sector due to military operations and devise strategies for its post-war rehabilitation. The purpose of this study was to assess the state of IT sector in Ukraine, regarded as the main driver of post-war recovery of Ukraine, and to gauge the extent of the damage inflicted by the war. The study was conducted using economic and statistical analysis methods. The findings revealed that in recent years, the IT industry has become one of the top three export sectors, contributing significantly to foreign exchange earnings and comprising about 5% of GDP. The industry also provides jobs for over 300,000 people. During the war, the IT sector demonstrated resilience, adapting to critical conditions and maintaining positive growth trends. However, despite these achievements, the war negatively impacted the sector, slowing its growth. During the first year of the war, the potential losses of the IT sector ranged from 0.4 to 1.9 billion US dollars. Areas requiring the development of regulatory support are identified. The post-war recovery of Ukraine should be centred on a progressive sector that integrates and unites all areas of the IT industry. Primarily, a digital transformation of the energy sector, transport, and logistics systems is proposed. The results of this study can inform the development of strategies for the post-war recovery of the Ukrainian economy and the forecasting of its development indicators

Keywords: volume of IT services; export of IT services; advantages of the digital economy; potential losses of the IT sphere from the war; threats to the development of the IT sector during wartime; post-war recovery

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Introduction

A defining characteristic of the Ukrainian economy in the pre-war period was its low level of innovative activity. This was evident in its outdated technological base, the absence of innovative specialists, and poor innovation management. While leading countries worldwide have been developing industries based on Industry 4.0 technologies and laying the groundwork for Industry 5.0, the Ukrainian industry was producing outdated products. Over half (58%) of Ukrainian industrial products belong to the third technological mode, a third to the fourth, and only 1% of Ukrainian products can be attributed to the sixth technological mode (Kyiv School of Economics, 2023). Today, the Ukrainian economy is experiencing significant losses due to the war. The military aggression of the Russian Federation against Ukraine has caused economic upheaval, manifesting in a substantial reduction in Gross Domestic Product (GDP), destruction of assets, disruption of the financial sector, and a decline in the population's standard and quality of life. By the end of 2022, direct losses of Ukrainian enterprises amounted to $13 billion, with indirect losses reaching $33.1 billion (Kyiv School of Economics, 2023). Given the ongoing hostilities, it is too early to assess the losses and outline recovery areas fully. However, steps are already being taken towards post-war development. The National Council for the Recovery of Ukraine from the Consequences of the War (Decree of the President of Ukraine No. 266/2022, 2022) and working groups for the reconstruction of infrastructure in settlements have been established. Post-war recovery of Ukraine requires a clear understanding of the scale of losses incurred, areas for future economic development, and sources and volumes of investment needed. In this context, it is beneficial to consider the experiences of other countries.

International financial institutions develop and implement programmes to provide financial assistance to countries in the post-war period. However, the experiences of individual countries demonstrate that without a balanced strategy for post-war recovery and proper prioritisation, financial assistance is ineffective. Returning a country to normalcy requires a well-developed recovery policy. The post-war economic recovery of European countries has been extensively explored. E. Reinert (2019) noted that all currently prosperous European countries used a similar strategy for the post-war reconstruction of their economies: they shifted from a raw material orientation to the processing industry and underwent a period where emulation – the desire and aspiration to match or surpass – was their main priority. The post-war restoration of Ukraine should focus not merely on reproducing destroyed capacities and technologies but on developing Ukrainian industry to modern standards. Consequently, the starting point for local drivers of economic recovery is to conduct an initial assessment of post-conflict needs and identify priorities. Moreover, as R. Sirop (2023) noted, for success, local drivers must analyse the political economy to understand why and how people can contribute to the economic recovery.

Post-war recovery should provide Ukraine with the opportunity to move away from outdated and inefficient technologies and modernise its economy. The reconstruction of post-war economy of Ukraine offers a significant chance to modernise the nation, develop high-quality transportation and logistical infrastructure linked to European countries, and integrate Ukraine into the Euro-Atlantic community. As S. Bandura and J. Staguhn (2023) noted, technology will play a crucial role in this process. Currently, the Ukrainian government emphasises the development of digital technologies as central to the country's future recovery. V. Gerasimov *et al.* (2019) observe that many developed nations have initiated systematic shifts towards fostering the digital economy in anticipation of future changes. C. Cohn and C. Duncansin (2018) accurately noted that war-weakened countries need deep reform measures that will not only contribute to recovery but also create a basis for further development. Beyond repairing the damages caused by war, Ukraine aims to address the broader economic implications of recovery, including disruptions and distortions. A key objective in the post-war recovery plan is to increase the IT sector's contribution to GDP to 10 percent (IT Ukraine Association, 2023a).

The purpose of the study is to diagnose the state of the IT sector in Ukraine as the main core of the post-war recovery of the country and to assess the extent of the damage caused by the war.

Methodology

The study utilised methods of economic and statistical analysis, including factor analysis, extrapolation, and GAP analysis. During the analysis of trends in the development of the IT sector from 2015 to 2023, an economic analysis method was employed based on a dialectical approach to understanding. This means that the main parameters of IT sector development were examined in accordance with the principles, laws, and categories of dialectics, which involve studying economic phenomena in terms of dynamics, movement, and development. All indicators were considered with their interconnections and interdependencies in mind (Stetsyuk, 2010).

To assess the losses in the IT sector due to hostilities, forecast values of key indicators obtained through the extrapolation method were compared with actual values. The calculation of forecast (potential) levels of IT service export volumes and their share in GDP was performed by extrapolating the trend. The aim of the forecast is to illustrate potential future outcomes by sustaining the trends observed in previous periods. The forecasting of indicators was based on the hypothesis that the development trends identified through statistical analysis of time series will continue into the future. Trend extrapolation is a primary approach for forecasting market dynamics. The defining feature of trend extrapolation methods is that they rely solely on historical values of a variable to determine its future values (Trend Extrapolation Methods, 2002). The extrapolation method used data on the volume of IT services exports and their share in GDP for the period 2015-2023, which are considered time series (Official website of the State Statistics Service of Ukraine, n.d.; IT Ukraine Association, 2022; IT Ukraine Association, 2023b). From this data, a trend was identified, representing the overall pattern of changes in indicators over a specific period. Simple extrapolation methods, including linear, geometric, and exponential approaches, require minimal data, have straightforward mathematical structures, and are easy to implement (Trend Extrapolation Methods, 2002).

The application of simple extrapolation methods is based on the assumption that the trends in IT product export volumes and their share in GDP, derived from dynamic series, will persist into the future. The trend of changes in indicators is described by a specific function:

$$y = f(t), \quad (1)$$

where *t is* a time variable. Next, the time series is standardised and forecasts are made for the further development of the process. In the case of a linear trend in the development of the phenomenon, it is advisable to extrapolate the trend using the average absolute increase. The forecasted level value is determined based on this average absolute increase. This value is then added to the base level of the dynamic series used for extrapolation:

$$y = y_0 + \Delta y, \quad (2)$$

where y_0 represents the baseline level of the series for extrapolation; Δy – average absolute growth; y – forecasted value of the series dynamics level. The absolute increase will be determined using the fundamental method of substitution according to the formula:

$$\Delta y = y_i - y_0. \quad (3)$$

Forecast values for the export volume of IT services and its share in GDP are derived from the statistical properties of the dynamic series using the following formulas. To compute forecast values based on average absolute growth:

$$y''_{n+T} = y_n + \Delta\bar{y}T. \quad (4)$$

To calculate forecast values based on the average growth rate:

$$y''_{n+T} = y_n * K_p^T, \quad (5)$$

where y''_{n+T} is the forecast value of the indicator for the period $_{n+T}$ (T-1;2;3;4;5); y_n represents the actual value of the investigated indicator for the last period before the forecast period; T denotes the number of periods for which the forecast is prepared; K_p stands for the average growth rate for the period preceding the forecast; and Δ represents the average absolute growth over the historical period.

When comparing forecast (potential) and actual indicators, the GAP-analysis method was employed. GAP analysis functions as a tool or process aimed at identifying the locations of gaps and discerning the distinctions between an organisation's current state and its desired situation or "what ought to be" in place. GAP analysis can be described as an organisational effort to bridge the gap between desired and forecasted activities (Kim & Ji, 2018). Methodologically, GAP analysis involves creating two graphs: one showing the trends in the volume of IT product exports and their share in GDP under stable conditions, and the other displaying the expected results under the influence of a military invasion. By drawing these graphs, the scale of the gap is estimated and appropriate measures are taken to fill it. Essentially, GAP analysis entails computing and contrasting the potential level of indicators with the levels attained under wartime conditions.

Factor analysis methods were used to determine the impact of factors on the share of IT services exports in the country's GDP. Factor analysis allows for the determination of the impact of individual factors on changes in the resulting indicator using deterministic or stochastic methods of research. In this study, a deterministic factor analysis of the influence of the volume of IT services exports and the volume of GDP was conducted using the method of chain substitutions. The method involving chain substitution and a successive approximation approach enables a gradual determination of the impact that each analysed variable has on the throughput per hour (García-Vidal *et al.*, 2019).

Factor analysis involves building a model of the formation of the resulting indicator. The model for calculating the share of IT product exports in GDP can be presented as a formula:

$$F = \frac{Exp}{GDP}. \quad (6)$$

The use of the chain substitution method involves a step-by-step replacement of the factor values from planned to actual:

$$F^1 = \frac{Exp\ act}{GDP\ pl}. \quad (7)$$

$$\boxed{\Delta} Exp = F^1 - F\,pl. \quad (8)$$

$$F^2 = \frac{Exp\ act}{GDP\ act}. \quad (9)$$

$$\boxed{\Delta} GDP = F^2 - F^1. \quad (10)$$

Exp pl, act refer to the planned and actual volume of IT services exports, measured in billions of US dollars. Similarly, *GDP pl, act* denote the planned and actual volume of gross domestic product, also in billions of US dollars. $\boxed{\Delta}Exp$ represents the impact of changes in IT product exports on its share in GDP, while $\boxed{\Delta}GDP$ indicates the impact of changes in GDP volume on the share of IT services exports in GDP. For the calculations, 2021 was chosen as the baseline year. This study utilised a set of indicators for the development of the IT sector from 2015 to 2023.

Results

The state of IT sector development in the pre-war period. The war is a profound upheaval for the country, taking lives, destroying destinies, demolishing infrastructure and logistics, and stifling economic development (Gavrysh *et al.*, 2024). While short-term military stimulation may yield some positive effects, such as immediate economic activity, the long-term consequences of destruction and reconstruction typically impede economic progress and undermine national prosperity (Goldstein, 2003). The economic component of the country's post-war revival is crucial; without ensuring rapid recovery, the nation risks falling into the trap of internal civil conflicts. Conflict, fragility, and poor development are intricately interconnected (Hoeffler, 2012). Higher growth rates in economic recovery prolong the duration of peace, thereby stabilising the country (Collier *et al.*, 2009).

The hallmark of modern economic development is the use of knowledge as a means of production. Against the backdrop of increasing information flows, knowledge and information become decisive factors in economic growth. The process of digitalisation permeates various spheres of societal life. Under such conditions, the global trend is the growing demand for "digital" products, the transformation of business models, and the restructuring of the economy.

Therefore, countries striving for progress create attractive conditions for conducting IT business, and the scientific and expert environment stimulates research in this area.

The IT sector has rapidly emerged as a primary driver of the global economy, catalysing fundamental changes and transformations across numerous industries in a short period. In recent years, the IT sector has been one of the most dynamically developing spheres in Ukraine. More and more Ukrainian industrial enterprises are implementing Big Data technologies, 3D printing, cloud services, and robotics. Pharmaceuticals, mechanical engineering, and equipment manufacturing are leading in these technologies (IT Ukraine Association, 2022).

However, a notable feature of the national IT sector is its focus on the external market. The Ukrainian IT industry has become a formidable competitor globally, serving as a reliable source of foreign exchange earnings that help sustain the hryvnia exchange rate. Consequently, the importance of IT services in the export structure is also increasing. Between 2015 and 2022, the export volume of computer services increased 4.3 times, reaching $7.35 billion, with an average growth rate of 26.8%. In 2023, for the first time in a long period, there was a decrease in the volume of computer services provided (Fig. 1).

This trend is characteristic of the export-oriented segment of the IT industry. The Ukrainian market for digital technologies has not developed at the same rapid pace. The export focus is also reflected in the types of IT companies. According to the Tech Ecosystem portal, the vast majority of IT companies (73.75%) are product companies, 22.7% are service companies, and only 3.7% are R&D centres (Fig. 2) (IT Ukraine Association, 2023).

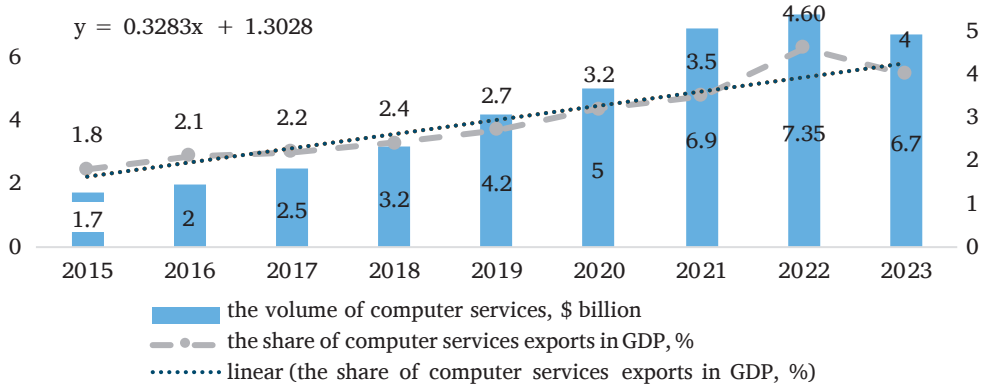

Figure 1. The volume of computer services in Ukraine during 2015-2023 and their share in GDP
Source: based on data from IT Ukraine Association (2023b)

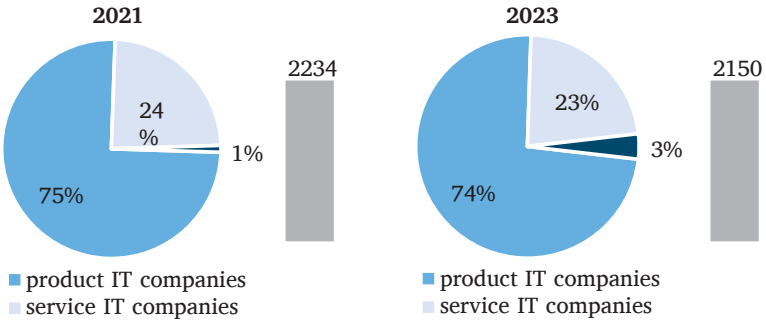

Figure 2. Number and structure of IT companies in 2021-2023
Source: based on data from IT Ukraine Association (2023b)

The modern Ukrainian IT sector comprises about 2,500 companies actively operating in the market. Human capital is the driving force behind the development of the IT sector. As of the end of 2023, the IT sector employed more than 346 200 specialists. At the beginning of 2024, the 50 largest IT companies in Ukraine employed over 74.7% of these specialists. In 2022, nearly half of the IT companies observed negative growth dynamics, with the total number of IT specialists decreasing by almost three thousand. More than 60% of IT companies have not suspended hiring in Ukraine since the war began. However, the hiring structure has changed: 9.5% of companies have increased the number of vacancies, 27.1% are hiring specialists at pre-war levels, 49.5% have reduced the number of vacancies, and 3% have completely stopped hiring employees (Nahatkin, 2023). The hiring structure also varies depending on company size – the largest (1000+ employees) and smallest IT companies have reduced the number of vacancies the most, by 66% and 58%, respectively. In companies with 11-50 employees, the number of vacancies decreased by 56%, with 51-100 employees – by 45%, with 101-1000 employees – by 43%, with 1000+ employees – by 66% (Nahatkin, 2023). A specific feature of the IT sector is that most IT specialists work with companies as sole proprietors, which affects taxation. The majority of IT specialists who cooperate with companies as individual entrepreneurs pay taxes independently under the simplified taxation system and pay a single tax. It should also be noted that the

single tax paid by individual entrepreneurs remains 100% in the local budgets where they are registered. Therefore, it can be stated that IT workers contribute to local budgets and regional development.

As of January 1, 2024, the amount of taxes and fees paid by the IT business to the consolidated budget of Ukraine amounted to UAH 35.9 billion, which is UAH 4.4 billion (11.5%) more than in 2022 (IT Ukraine Association, 2022; IT Ukraine Association, 2023b). In the structure of taxes paid by IT companies, the largest components are personal income tax and the single social contribution (Fig. 3). Consequently, over the past decade, the IT sector has tended to grow rapidly and has gradually become the driving force of the entire Ukrainian economy.

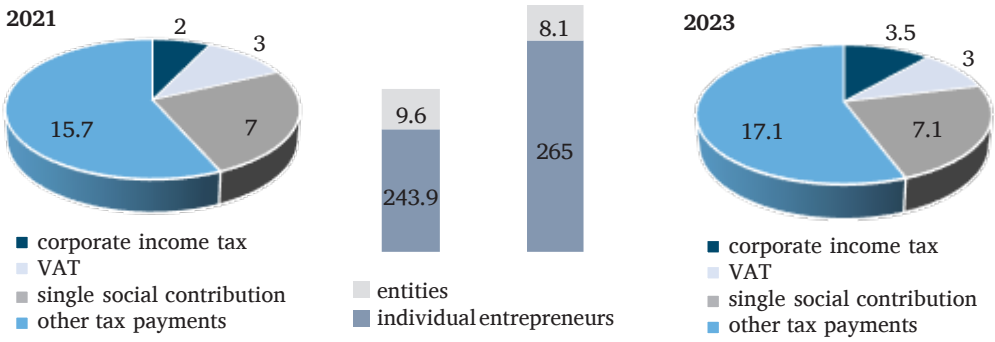

Figure 3. Taxes paid by IT companies during 2021-2023

Source: based on data from IT Ukraine Association (2023b)

Predictive assessment of the IT sector development. The development of the IT sector in the pre-war period was characterised by positive dynamics. As noted earlier, even under the conditions of a full-scale invasion, the IT industry is showing positive dynamics. However, the war has affected all sectors of the economy, including the IT sector. An analysis of deviations (GAP) in the development of the industry allows for prompt corrective measures in the short term and strategic decisions in the medium and long term. The development gap of the IT industry is calculated as the difference between the actual volume of IT services provided and its potential level. Unlike the main statistical indicators of the industry's development (such as the volume of IT services provided, the share of IT services exports in GDP, and the number of employees in the industry, etc.). The potential volume of IT services and the discrepancies therein are not captured in official statistics. Consequently, both quantitative and qualitative evaluations utilising statistical methodologies are necessary. Forecasting anticipated indicators is conducted using historical data, with trend extrapolation representing one of the straightforward forecasting techniques. This method takes a historical trend over time and extrapolates the dynamics of indicators if the existing trend persists in the future. The general assumption is that whatever happened in the past will continue in the future.

The results of calculating the statistical characteristics of the dynamic series of volumes of IT services provided during 2015-2023 and their forecast are shown in Table 1. To mitigate the influence of fluctuations in the exchange rate of the national currency on the forecast indicators, the volume of IT services provided in hryvnias is converted into the dollar equivalent using the average annual official exchange rate.

Table 1. Analytical characteristics of the time series of IT services volumes provided

Years	Share of IT services export in GDP, %	Export volume of IT services, $ billion	Increase in export of IT services, $ billion	
			Absolute	Relative
2015	1.8	1.7	-	-
2016	2.1	2	0.3	17.65
2017	2.2	2.5	0.5	25.00
2018	2.4	3.2	0.7	28.00
2019	2.7	4.2	1	31.25
2020	3.2	5	0.8	19.05
2021	3.5	6.9	1.9	38.00
2022	5.27	7.35	0.45	6.52
2023	4	6.7	-0.65	-8.84
Average value for 2015-2023	3.02	4.11	0.63	19.58
Forecast data				
Forecast value of IT services exports in 2024, $ billion			7.33	8.25
Forecast value of IT services exports in 2025, $ billion			7.95	10.44
Forecast value of the share of IT services exports in GDP in 2024, %			4.28	4.48
Forecast value of the share of IT services exports in GDP in 2025, %			4.56	5.02

Source: calculated by the authors based on IT Ukraine Association (2023b) and Official website of the State Statistics Service of Ukraine (n.d.)

The results of the IT sector development dynamics in 2015-2023 indicate that in Ukraine, there was a trend towards rapid qualitative growth in the volume of IT service exports and their share in GDP. The prevailing economic conditions suggest the gradual establishment of a foundation for the industry's continued progressive development.

Calculation of the impact of the war on the IT sphere. The full-scale invasion by the Russian Federation caused a decline in the development rate of the IT industry. The GAP analysis method was used to assess the impact of the war on the development of the IT sphere. In the GAP analysis method, the initial step involves calculating the projected development indicators of the IT sector to pinpoint disparities between their anticipated volumes during peacetime and the volumes observed under wartime conditions. Forecasts from previous years serve as the basis for projecting expected indicators, with data from 2023 used as a reference point. Subsequently, upon computing all indicators, discrepancies between the anticipated values during peaceful times and their actual values were identified.

Since the IT sphere of Ukraine is export-oriented, the main indicator that characterises it is the volume of IT services exports. As mentioned above, the IT sphere is the only sphere that managed to ensure growth in the conditions of active hostilities. However, the obtained results are significantly worse than the predicted values. The gaps between predicted and actual values can be considered lost opportunities due to the war. To visualise the results, the data are presented in the form of a graph (Fig. 4).

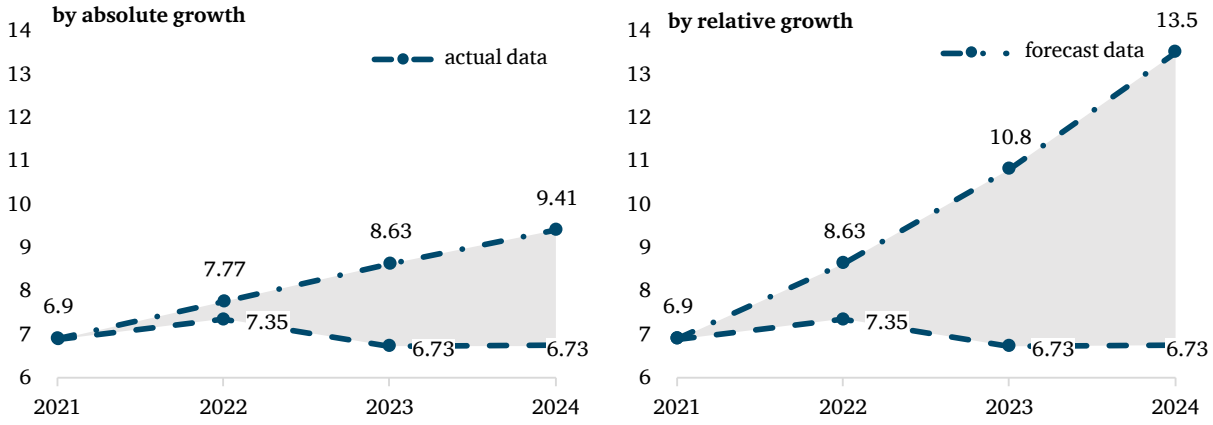

Figure 4. Projected assessment of the decline in IT services export volume due to the war, $ billion USD
Source: calculated by the authors based on IT Ukraine Association (2023b) and Official website of the State Statistics Service of Ukraine (n.d.)

As shown in Fig. 4, the Ukrainian IT sector missed out on revenue from IT services exports in 2022, ranging between $4.07 million and $1.9 billion, depending on the calculation method. The war had a synergistic negative impact on the overall economy, particularly on the IT sector. Another reason for the decline in IT services exports is the overall global downturn in the IT sector. The war in Ukraine slowed the development of the worldwide economy, which in turn affected the demand for IT services. In addition, foreign customers have cited growing risks in cooperating with Ukrainian IT companies. Under these assumptions, in 2023, losses in the IT sector due to the war will range from $1.21 billion to $3.92 billion. Another crucial indicator for evaluating the IT sector development is the share of IT services exports in the country's GDP (Fig. 5).

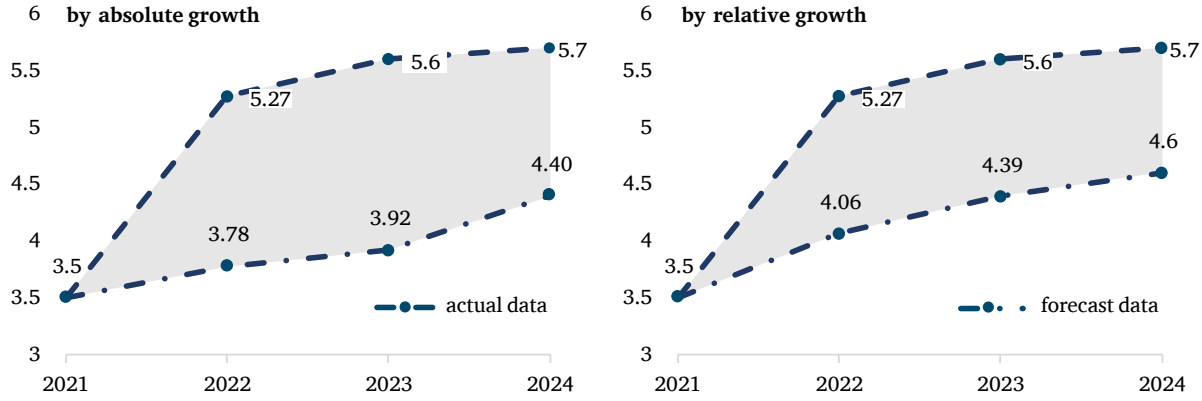

Figure 5. Predictive assessment of the gaps between the forecast and actual values of the share of IT services exports in GDP
Source: calculated by the authors based on IT Ukraine Association (2023b) and Official website of the State Statistics Service of Ukraine (n.d.)

The dynamics of the share of IT services exports in GDP show diametrically opposite trends compared to the indicators of the volume of IT services exports. This situation can be explained by the opposing influences of factors such as the volume of IT services exports and the volume of GDP in natural units of measurement on the resulting indicator, which is the share of IT services exports in GDP. During 2022, there was an increase in the volume of IT services exports alongside a simultaneous reduction in GDP. To determine the influence of these factors, it is necessary to build a factor model, establish causal relationships between the factors, and determine the influence of each factor on the resulting indicator.

It is advisable to apply the chain substitution method to identify the influence of factors on the change in the performance indicator compared to the base value (Table 2). The essence of this method is to gradually replace the basic values of the factors with the current ones to find the adjusted calculated values of the generalising indicator and then compare each subsequent calculation with the previous one.

Table 2. Factor analysis of the share of IT services exports in GDP by the method of chain substitutions (adjusted indicators)

Years	Interactive factor indicators		Share of export of IT services in GDP, %	Influence of factors,%
	Export volume of IT services, $ billion	GDP, $ billion		
2021	6.9	200.1	3.5	-
	7.35	200.1	3.675	3.675-3.5 = +0.175
2022	7.35	140	5.27	5.27-3.675 = +1.595
Change in the share of IT services exports in GDP, %			5.27-3.5 = 1.77	

Source: calculated by the authors based on IT Ukraine Association (2023b) and Official website of the State Statistics Service of Ukraine (n.d.)

The data in Table 2 show that both the increase in the volume of IT services exports and the reduction in GDP volumes positively affected the share of IT services exports in GDP. While the reduction of GDP volumes cannot be considered positive in itself, the inversely proportional relationship between the resulting indicator and GDP ultimately contributed to an increase in the share of IT services exports in GDP. Based on the results of all calculations, it can be concluded that with an increase in the export of IT services by $0.45 billion, the share of IT services exports increased by 0.175%, and the reduction of GDP volumes by 30% caused an increase in the share of IT services exports by 1.595%. Thus, the impact of the fall in GDP was twice as significant as the impact of the increase in exports, which cannot be considered positive.

Areas of the post-war recovery of the IT industry. The recovery of the Ukrainian economy must be based on the latest digital technologies. IT industry can act as the catalyst for the modernisation of the national economy. During the first year of the war, the digital space demonstrated resilience to changing operating conditions and the ability not only to adapt but also to develop in critical conditions.

To achieve a rapid digital transformation of the domestic economy, it is advisable to implement several measures that will synergistically enhance the overall effect:

- digital transformation of certain industries. The energy sector is among the reconstruction priorities. This industry requires urgent modernisation since critical infrastructure has become the primary target for enemy attacks (with more than half of energy infrastructure destroyed by early 2023) (Labyak, 2023). Priority measures include implementing “digital power plant” projects, digitalising the energy sector, and using smart meters.
- development of digital infrastructure. Digital transformation is impossible without ensuring access to the Internet. High-speed broadband connectivity is crucial for digitalisation. Therefore, restoring services provided by telecommunication operators in liberated territories is a priority. However, the extent of damage to the networks is significant, and therefore, Ukraine will not be able to restore them quickly without donor support.
- expansion of digital public services. In the pre-war period, several projects were implemented to ensure transparency and reduce corruption risks in Ukraine, which were well-received by the public. To continue reforms and integrate Ukraine into the European digital age, it is essential to digitise customs, trade documentation, transport and logistics, and other sectors.
- development of regulatory and institutional support for the “digital” recovery of the economy. In 2022, the “Ukraine Recovery Plan” was introduced, outlining 850 projects (Ukraine National Recovery Plan, 2022). An important aspect of post-war recovery is the “Fundamentals of Recovery: Digital State” programme. The implementation of the Ukraine Recovery Plan requires the development of appropriate legislation, in particular regarding the regulation of the use of blockchain technology in public administration, the operation of information platforms (regulation of ownership relations, labour relations, the taxation system, antimonopoly policy, cross-platform and national-international exchange and data protection), and the introduction of artificial intelligence technologies. Ukrainian legislation can be based on the United Kingdom National AI Strategy (2021), which recognises AI’s ability to increase sustainability, productivity, growth, and innovation in the private and public sectors. A detailed study of the experience of Estonia, which, as a post-Soviet country, is a leader in digital governance in Eastern Europe, should be an important area of legal regulation in this area (ISA[2], 2019).
- Over the past decades, the IT sector has driven the development of the Ukrainian economy. Digital transformations have facilitated the modernisation of other sectors of the economy (Frączkiewicz-Wronka, 2021; Liepert, 2024; Zarichuk, 2024). Digitalisation has had a synergistic effect on the entire economy (Piddubna & Gorobynskaya, 2023). However, the war has impeded the IT sector’s growth, reducing the export volumes of “digital” products and slowing the development pace. This is particularly highlighted by the

European Commission when discussing the principles that should underpin Ukraine's post-war recovery (Communication from the European Commission No. COM(2022) 233 final, 2022). Post-war recovery in Ukraine should be based on the use of digital technologies. Therefore, it is advisable to establish an appropriate regulatory framework to supplement the current Law of Ukraine No. 1667-IX (2023), particularly in the development of information platforms, the use of artificial intelligence technologies, cloud technologies, and the regulation of relations in the information sector.

In recent decades, cutting-edge technologies have become a driving force for economic growth. As noted by A. Toffler (1980), the "third wave" of human civilisation's development (the transition from an industrial to a post-industrial society) signifies that information becomes the most important item of production, and cumulative knowledge, as accumulated information, increases exponentially. A distinctive feature of the current stage of global economic development is the proliferation of digital technologies across all spheres of human activity – education, the economy, medicine, finance, public administration, and more. The spread of digital technologies confers substantial benefits to the state, the business environment, and the populace. At the state level, according to A. Pomaza-Ponomarenko *et al.* (2020), the positive impact is seen in the improvement of the population's quality of life and the productivity level of social labour. Scientists identify various manifestations of the positive impact of digital technologies. The main advantages of the digital economy, as outlined by A. Hlazova *et al.* (2021), include optimising business processes within the country, fostering the creation of new products and services utilising Internet technologies, cloud services, virtual reality, and artificial intelligence. Moreover, benefits encompass cost reduction achieved by minimising personnel through the automation and robotisation of business processes, as well as the creation of entirely new business solutions such as interaction platforms, contemporary insurance models, mobile educational applications, alternatives to banking services, personalised advertising, and individual targeting of online customers.

The process of digital transformation not only creates advantages for the economy but also presents certain risks and threats. A group of authors led by A. Spitsina *et al.* (2022) emphasises the impact of the proliferation of digital technologies on the social sphere – job loss, changes in wages, inequality, the use of health-preserving technologies, efficient resource utilisation, personal safety, and societal security. Agreeing with the authors' viewpoint, it is worth noting that besides risks in the social sphere, risks also arise in the technological, economic, political, legal, and personal spheres.

Regarding the development of the IT sector under martial law, most researchers note that despite the complexities in fulfilling export contracts, the industry continues to develop dynamically. The IT sector remains the only export industry that is currently operating at almost pre-war levels (Spitsina *et al.*, 2022). Disagreeing with the authors' opinion, it is contended that simply maintaining pre-war development rates neglects to recognise the scale of missed opportunities. The pace of IT services exports during 2015-2023 outpaced all other sectors of the economy and stood at 26.8% (IT Ukraine Association, 2023b). Maintaining export volumes at pre-war levels indicates the loss of about a quarter of service volumes. Among the reasons for such deceleration, researchers mention cyberattacks on information systems of institutions, enterprises, and organisations; disruption and damage to Internet networks due to enemy actions, as well as a decrease in IT specialists due to migration and military service (Spitsina *et al.*, 2022). Other challenges include limited access to financial resources for small and medium-sized enterprises, insufficient systematic and sustained backing for domestic ICT advancement, recurring macroeconomic fluctuations, and low household income levels (Verbivska *et al.*, 2023). Overall, while agreeing with the authors' opinion, it should be noted that one of the significant reasons for the reduction in IT services exports is the risk associated with war. The risk of project non-fulfilment due to military actions on the territory of Ukraine is too high, so clients prefer companies from other countries. It should be noted that maintaining such a trend poses several threats: firstly, during times of war, a significant portion of the population remains without means of subsistence, shifting the burden of social security onto the state; secondly, the state budget misses out on tax revenues; thirdly, after the war, it will be challenging to lure clients back to the Ukrainian IT market.

Researchers have differing opinions on the pathways to support the development of the IT sector. V. Yanovska (2019) emphasises the role of the government, which, in her opinion, should play a key role in preparing, developing, and promoting national digital strategies. Relying solely on governmental bodies for the development of the digital economy during wartime is not advisable. Private business structures, international organisations, and civil organisations can also undertake measures to stimulate the spread of digital products.

Conclusions

This study examined the role of the IT industry in the economy of Ukraine during the pre-war period, assessed the predicted losses from the war, and developed measures for its modernisation. The study demonstrated the dynamic development of the IT industry over the past decades. The IT sector has emerged as one of the top three export industries, contributing foreign exchange earnings to the country and accounting for approximately 5% of the GDP. The IT industry also serves a social function, providing jobs for over 300,000 people with wages five times higher than the national average. The main advantage of the IT industry is its alignment with ultra-modern global trends and its dynamic growth. Even in times of war, the industry has shown an ability to adapt to critical conditions and maintain positive growth trends.

However, the war has impacted the development of the IT industry. Although the sector overall has shown an increase in the volume of services export, more than half of the companies report a decrease in the volume of orders. This has led to a reduction in both the number of employees and job vacancies. Not all consequences of war can be quantified statistically. In this context, potential economic losses were assessed, including hypothetical outcomes that would have been realised in the absence of an armed conflict on Ukrainian territory. The estimated losses in the volume of IT services exports due to the war in 2022 alone range from $400 million to $3.35 billion. However, it is incorrect to limit the assessment of war losses solely to the drop in IT services exports. The impact of war is complex, and the resulting negative effect is synergistic.

Considering this, the IT industry should become the main driver of the post-war recovery of the national economy. The military invasion of the Russian Federation destroyed a large part of infrastructure objects, the restoration of which should be conducted based on digital technologies. Given the destruction and economic importance, it is necessary to prioritise the digital transformation of the energy industry, transport, and logistics sectors. The post-war recovery of the IT sector should be based on a developed economic restoration strategy, including a regulatory framework for its implementation, which will guide further research areas.

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Conflict of interest

None.

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Економічні та правові аспекти функціонування IT-сфери в умовах війни

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Анотація. Станом на 2024 рік Україна вже більше двох років перебуває під військовою агресією з боку Російської Федерації. Війна вплинула на всі сфери життєдіяльності країни, в тому числі й на IT-індустрію. За таких умов виникає потреба в оцінці втрат цифрової сфери від ведення бойових дій та розробці напрямів її післявоєнного відновлення. Метою дослідження була діагностика стану IT-сфери України, як основного ядра післявоєнного відновлення України, а також масштабів збитків, завданих їй війною. Дослідження проводилося з використанням методів економічного та статистичного аналізу. За результатами дослідження було встановлено, що за останні роки IT-індустрія увійшла до трійки провідних експортних галузей, забезпечуючи країну валютними надходженнями та формуючи близько 5% ВВП. Забезпечуючи робочими місцями понад 300 000 людей. Під час війни галузь продемонструвала здатність адаптуватися до критичних умов і змогла зберегти позитивні тенденції зростання. Однак навіть при таких результатах війна негативно вплинула на цю сферу, сповільнивши темпи її зростання. За перший рік війни потенційні втрати IT-сектору становлять від 0,4 до 1,9 млрд доларів США. Визначено сфери, які потребують розвитку нормативно-правового забезпечення. В основу післявоєнного відновлення України має бути покладена прогресивна сфера, яка пронизує та об'єднує всі сектори та напрямки IT-індустрії. Насамперед, пропонується здійснити цифрову трансформацію енергетичного сектору, транспорту та логістичних систем. Результати дослідження можуть бути використані при розробці стратегій післявоєнного відновлення української економіки та при прогнозуванні показників її розвитку

Ключові слова: обсяг IT-послуг; експорт IT-послуг; переваги цифрової економіки; потенційні втрати IT-сфери від війни; загрози розвитку IT-сектору у воєнний час; післявоєнне відновлення

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Substantiating the legality of human rights restrictions in Ukraine in pre-trial investigation

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Abstract. The relevance of the subject lies in the formation of a scientifically based concept of proving the legality of restrictions on rights and freedoms during pre-trial investigation, which is based on a three-stage test of the justification of interference formulated in the jurisprudence of the European Court of Human Rights. The purpose of the study was to establish general criteria for the legality of restriction of rights and freedoms during pre-trial investigation with their explication of specific procedural actions and decisions characterised by a high degree of intrusiveness. The main research methods were anthropological, axiological, dialectical, systemic, formal, legal, and the method of expert assessments. Was is proved that algorithmisation of the decision on the restriction of human rights in a pre-trial investigation should be conducted according to the methodology of a three-part test: foresight in the law; the purpose of interference, which should be legitimate; whether such interference was required in a democratic society. This test is applicable to all intrusive measures in criminal proceedings but has its own characteristics depending on the measure and the nature of the intensity of restriction of rights. It is argued that the elements of the three-part test when applying measures to ensure criminal proceedings are objectified in the local subject of proof, which has three levels: 1) General (Article 132 of the Criminal Procedure Code of Ukraine); 2) Group, for preventive measures; 3) Special, for certain measures to ensure criminal proceedings, including preventive measures. On the example of regulatory regulation of individual investigative (search) actions, it is established that ensuring the proportionality of their application is conducted by determining by the investigating judge the limits of restriction of rights and freedoms during such a procedural action and preventing arbitrariness to a person. The most detailed proof of the legality of restricting rights in measures to ensure criminal proceedings has specifics depending on the measure and the person to whom it is applied. The practical importance of the work lies in the possibility of using the algorithms given in it when establishing elements of the local subject of proof by investigating judges

Keywords: rule of law; proportionality; European Court of Human Rights; evidence; judicial control; investigative (search) actions; measures to ensure criminal proceedings

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Introduction

In a state governed by the rule of law that respects legal values and where the rule of law really exists, the limits of its interference in people's lives are determined by human rights. In any state, there may be legitimate restrictions on human rights due to the values of security and freedom, but such restrictions must be conducted on the basis of a law formulated in such a way that its content correlates with the rule of law and legal certainty. There are other conditions for legitimate restriction of human rights that must be met. Of particular importance is the legality of restricting human rights in criminal proceedings since this is the most intrusive of all legal processes in the state, and the result of this process is judicial criminal sanctions. An investigating judge who has relevant powers regulated by the Criminal Procedure Code of Ukraine (2012) (hereinafter referred to as the CPC) to assess the legality of such restrictions in criminal proceedings. This issue is currently relevant in both theoretical and practical contexts. In the theoretical context, it is important to form the concept of criminal procedural proof of the legality of human rights restrictions. In the practical context, the relevance is due to the fact that there are often cases of improper establishment of circumstances that restrict human rights, leading to disproportionate restrictions on such rights.

The most important theoretical and methodological issues of restricting human rights in Ukraine are considered in sources on the theory and philosophy of law, constitutional law. In particular, the influence of the European Court of Human Rights (ECHR) practice on assessing the legality of human rights restrictions is examined. M. Blikhar *et al.* (2020) considered the general axiological paradigm of the ECHR's activities, which also concerns the assessment of the legality of interference with rights. The authors' conclusions emphasise the values of the ECHR (including procedural ones) in the aspect of defending rights. S. Romantsova *et al.* (2020) investigated these issues in the aspect of preventive measures in the context of the practice of the ECHR. The authors concluded that the practice of the ECHR is mandatory for the prosecution side, which is authorised to initiate the application of preventive measures. O. Kaplina and S. Fomin (2020) investigated considering the practice of the ECHR in the aspect of restricting the right to peaceful possession of property. They review the characteristics of means of restricting the right to peaceful possession of property and, based on the results of the study, formulated a model of the list of consecutive issues that the investigating judge should solve when considering a request for the seizure of property. V. Rohalska and I. Shapovalova (2020) reviewed the application of the practice of the European Court of Human Rights by an investigating judge, including the disclosure of the tree-component test. The authors stressed its importance in determining the legal basis for the proportionality of the interference.

The issues of proving these measures in the activities of the investigator are considered by I. Zinkovskyy (2019). The author highlighted the shortcomings of the legal regulation of such measures for all groups of these measures, including those where the decision is made by the investigating judge. Features of proof during the application of preventive measures are examined by M. Kalinovska (2021). The author highlights the specifics of the activities of an investigator, Inquirer, prosecutor, and investigating judge, and highlights the subject of proof and its characteristics. The issue of proof in the application of preventive measures in proceedings for the use of compulsory medical measures was considered by O. Tyshchenko and I. Titko (2020) drew attention to. The authors note that it is inappropriate to classify the measures provided for in Article 508 of the Criminal Procedure Code of Ukraine CPC of Ukraine (2012) as preventive measures.

A separate block of research is devoted to the issues of proving the legality of restrictions on rights and freedoms during investigative (search) and secret investigative (search) actions. Authors O. Kaplina *et al.* (2023) highlighted the standards for ensuring the legality of secret activities in criminal proceedings. Within the framework of this problem, questions of the legality of interference in private communication (Teremetsky *et al.*, 2021) and bank account monitoring are also considered (Kantsir *et al.*, 2021). The authors focus their attention mainly on certain issues of regulatory regulation of these aspects in Ukrainian national legislation and relevant international standards in this area.

However, comprehensive proof of the restriction of human rights in criminal proceedings under modern legislation in the systematic unity of those procedural actions, the decision on permission to conduct, which is made by the investigating judge, using a three-part test, was not conducted. Thus, the purpose of the study is to highlight the features of proving the restriction of human rights in Ukraine in a pre-trial investigation based on the methodology for assessing the legality of the restriction of human rights highlighted by the ECHR.

Materials and methods

In the criminal procedure doctrine of Ukraine, there are no systematic concepts of the specifics of proving human rights restrictions in Ukraine in pre-trial investigations based on the methodology for assessing the legality of human rights restrictions identified by the ECHR. Accordingly, a set of scientific approaches and methods was used to achieve the purpose of the study. The fundamental approach of the study is the anthropological methodological approach because the focus of the study is on human rights and their limitations. Through the prism of this approach, despite the fact that the basis of human rights is dignity and freedom, the general possibility, grounds and limits of restricting human rights were considered. The axiological approach applied is based on the interpretation of human rights as values and those values for which human rights can be restricted: security (in a broad sense) and ensuring the rights of other people. This approach allowed developing an understanding the criteria for the legality of interference with rights in pre-trial investigations, demonstrating the correctness and necessity of using the three-part test, and identifying its manifestations in the text of the Criminal Procedure Code of Ukraine based on the correlation of values. The hermeneutical approach allowed identifying the implicit three-part test in the Criminal Procedure Code of Ukraine. Consequently, norms that indicate that this test should be considered, including the need to assess the proportionality of human rights restrictions. The same approach allowed demonstrating the limits of the legality of interference with rights when deciding on the application of measures to ensure criminal proceedings. Its application allowed interpreting the specific features of the proportionality of the seizure of property due to the intrusive nature of the measure. The use of the historiographic

method allowed examining the development of scientific approaches to the subject under study. The logical-legal method allowed arguing for algorithmising the use of a three-part test in proof.

The levels of proof of the legality of human rights restrictions in the aspect of measures to ensure criminal proceedings were identified using the classification method: 1) General; 2) Group for preventive measures; 3) Special for individual measures, including preventive measures. Using a systematic method, the relationship between scientific ideas, approaches, and legal norms related to issues of interference with rights in pre-trial investigations was determined. The same method allowed considering restrictions on rights in criminal proceedings within the framework of a more general concept of restrictions on rights (interference with rights), in particular, constitutional and conventional ones. It also allowed considering evidence of restriction of rights in the application of preventive measures within the more general category of restrictive measures to ensure criminal proceedings. Using this method, a logical relationship between the elements of a three-part test and the local subject of proof was demonstrated.

Methods of analysis and synthesis allowed interpreting the norms of current legislation and judicial practice. The content of the provision of legislation and judicial practice was considered using the formal-legal method for this purpose. All methods were applied in a relationship, ensuring the formulated conclusions' validity and correctness. The normative basis of the study is the Constitution of Ukraine (1996), Law of Ukraine No. 2939–VI (2011), Criminal Procedure Code of Ukraine (2012) (CPC of Ukraine), and empirical-systematised legal positions on the decisions of the European Court of Human Rights..., 2015; 2019). The study was conducted according to the following methodological scheme: 1) review of general issues of interference with constitutional, conventional, and procedural rights in the pre-trial investigation; 2) consideration of issues of interference with rights in the context of measures to ensure criminal proceedings; 3) analysis of the issue of interference with rights in the context of conducting investigative (search) actions.

Results and discussion

General provisions of the legality of interference with rights in pre-trial investigation. The key provisions of proving the validity of human rights restrictions in Ukraine in pre-trial investigation are related to the disclosure of fundamental issues: rights that may be restricted in criminal proceedings; regulatory conditions for their restriction of various sources; proportionality of restrictions. Therewith, when interpreting restrictions on human rights, it is necessary to proceed from the definition of I. Dakhova (2018) of the impossibility of a person to exercise a certain subjective right in order to protect public values, which is necessary in a democratic society. Notably, the element of setting limits on the exercise of law is emphasised as a content component of this category (Great Ukrainian legal encyclopedia, 2017) and an element of balancing interests (Savchyn, 2018; Doroshenko, 2023). However, it is difficult to agree with the position that the restriction of fundamental rights and freedoms of a person is a detraction of possible patterns of behaviour on the part of other persons (Strekalov, 2010) since, when it comes to lawful restriction of rights, the subject of such restriction, through appropriate rule-making activities, is the state, and the legal capabilities of other persons to influence other people's behaviour are derived from state restriction.

Regarding human rights in criminal proceedings, a complex system of rights that have different sources, although they are the same in nature. This concerns the following rights: constitutional, convention, and procedural (although they overlap in certain aspects). Constitutional rights that are directly exercised in criminal proceedings, according to Article 64 of the Constitution of Ukraine (1996), may not be restricted except in cases provided for by the Constitution. Restrictions for some of them (according to the list of Article 64 of the Constitution) are possible in a state of war or emergency. However, the current legislation stipulates that constitutional rights are restricted not only in such cases. In particular, the CPC of Ukraine (2012) provides for restrictions on the free choice of a defender of their rights if the number of defenders in court proceedings exceeds five and in cases of defence – by appointment with the participation of a defender from the system of free legal assistance, including for conducting a separate procedural action. Therewith, the European Court of Human Rights stressed that the right to choose one's own defender cannot be considered absolute, and the provision of legal assistance in certain cases is limited (Decision of the European Court of Human Rights..., 2015).

Article 64 of the Constitution of Ukraine (1996) does not contain any grounds and conditions for general restrictions, despite the fact that the conditions for restrictions are prescribed, for example, the right to secrecy of correspondence, telephone conversations, telegraph, and other correspondence, to the inviolability of the home, to freedom, and personal inviolability. However, the doctrine highlights the general principles of restriction of rights (Nazarov, 2009; Great Ukrainian legal encyclopedia, 2017; Savchyn, 2018), so that such restriction is not arbitrary. However, the general concept of restriction of constitutional human rights in the Constitution of Ukraine is very lapidary, in contrast, for example, to the Convention for the Protection of Human Rights and Fundamental Freedoms and the practice of the ECHR, within which a three-part test of the legality of restriction of rights (interference in rights) is formed.

Conventional human rights in criminal proceedings are set out in Articles 3, 5, 6, 8, 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) (hereinafter referred to as the Convention), Article 1 of the Additional Protocol, Article 2 of Protocol No. 4, Articles 2, 4 of Protocol No. 7. Notably, the conditions of restriction are set out only in Articles 5, 8, and Article 2 of Protocol No. 4, Articles 2, 4 of Protocol No. 7. However, when it comes to restricting certain components of the right to a fair trial, the ECHR case law mentions restrictions on the right of access to a court, the right to defence, early access to a defender, and the right to survey witnesses (European Court of Human Rights, 2023a). The ECHR interprets the rule of law through the "living instrument" doctrine (Reminska, 2023), which also affects the interpretation of the possibilities of interference in rights.

The three-part test is most clearly manifested in the provisions of Article 8 of the convention because it provides for the implementation of interference in accordance with the law, a legitimate goal, and the need for interference in a democratic society. This test is used as a methodological basis for assessing the legality of interference in law

in the legal system of Ukraine (Law of Ukraine No. 2939-VI, 2011). Scientific research uses it as a methodological basis for assessing the legality of human rights restrictions (Savchyn, 2018; Dakhova, 2018). This is due to the fact that the practice of the ECHR is aimed at humanising national criminal proceedings (Romantsova *et al.*, 2020), and the core of the ECHR philosophy is humanistic anthropological values (Blikhar *et al.*, 2020).

The CPC of Ukraine (2012), considering the publicly coercive nature of criminal procedure activities, provides for both the procedural rights of participants in criminal proceedings and their restrictions. Therewith, restrictions are formulated as certain exceptions at the level of the principles of criminal proceedings and, in more detail, in the regulation of specific procedural actions. It should be recognised that not all restrictions on procedural rights, which are simultaneously constitutional, are equally meaningfully formulated. In particular, this concerns the right to freedom and personal inviolability, which, according to Article 29 of the Constitution of Ukraine (1996), is allowed for the purpose of urgent necessity to prevent or stop a crime. Therewith, Articles 207 and 208 of the CPC of Ukraine (2012) provide for a large number of grounds for detention that are broader than the constitutional norm (Part 1 – paragraphs 3-4; Part 2 of Article 208).

The three-part test, which is well-known in the practice of the ECHR, is not directly fixed in the CPC of Ukraine (2012). However, the analysis of the text of the CPC of Ukraine (2012) allows asserting the implicitness of this test. This interim conclusion follows, firstly, from the consolidation in the CPC of Ukraine (2012) of the principles of the rule of law and legality and the regulation of restriction of Rights (which indicates interference under the law if the quality of the norms is such as to meet the requirements of the "quality of the law", also formulated in the practice of the ECHR). Secondly, this is evidenced by the wording of a legitimate goal in a number of norms, although without such a name, for example, Part 2 of Article 14, Part 3 of Article 15, Part 2 of Article 23, Part 2 of Article 27, Article 206-1, Article 207, Article 208 of the CPC of Ukraine (2012). Thirdly, there are also formulations that indicate the need and the proportionality of interference in a democratic society: Part 3 of Article 132, Part 2 of Article 246 of the CPC of Ukraine (2012).

Researchers, in particular, V.V. Nazarov (2009) expressed approaches to the standards of permissible restriction of human rights in criminal proceedings. The principles of such restrictions include: legality; legitimacy; clarity, clarity and certainty; goal-conditionality; correlation of goal and result; exclusive and temporary nature. A more advanced approach is to highlight standards (requirements) and signs of restriction of individual rights. In particular, such requirements include: the legality of restriction without changing the essence of the right; the existence of a legal procedure; the legal mechanism for implementing the right and the guarantee (Mirkovets, 2021). However, the latter standard is more a standard for ensuring the rights rather than limiting them. Such features have common features of measures to ensure criminal proceedings (Poberezhnyk, 2017) (this is important but does not reflect the standards of restriction of rights) and a provision that is really a standard: application in cases where it is otherwise impossible to achieve the goals of criminal proceedings (Poberezhnyk, 2017). The most relevant approach is to determine the legality of a restriction using the three-part test methodology (Tarasyuk, 2019). Notably, the following elements of this test are added in the research: equality; judicial character; temporality and the possibility of appeal (Muzychenko, 2016; 2018), the presence of a real possibility of causing harm to various interests.

Algorithmisation of the solution to the issue of human rights restrictions in pre-trial investigations should be conducted according to the methodology of a three-part test. This question is solved by proof, which for this purpose is understood both as proof-knowledge and as proof-justification (Arkusha *et al.,* 2021). In the first stage, it should be discussed whether the interference is provided for by law. Proof of this aspect is usually limited because the CPC of Ukraine (2012) clearly provides for an exclusive list of procedural actions that restrict human rights in criminal proceedings. As for a resolution, ruling, or petition, they contain references to the relevant articles of the CPC of Ukraine (2012). In the second stage, a legitimate goal is determined. It varies depending on the nature of the procedural action and may consist in: ensuring the effectiveness of criminal proceedings; ensuring the collection and verification of evidence; ensuring the safety of a person's life (in case of forced feeding), etc. During the third stage, the need for a democratic society is justified. This regards the possibility of achieving a legitimate goal and the appropriateness of such a means of achieving it. In criminal proceedings, this is proved in each specific case, considering the specifics of the local subject of proof and the procedural situation, for example: determining whether the bail is sufficient and its size to ensure the proper behaviour of the suspect, whether it is necessary to apply detention; in the case of bail, determining its size; in the case of applying additional obligations provided for in Article CPC of Ukraine (2012), determining which one.

Given that the concept of "necessity", in particular, within the meaning of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), means conformity to a pressing public need and proportionality to a legitimate purpose (European Court of Human Rights, 2023b), the question of proportionality of interference is decided in the same stage. The proportionality requirement is most clearly reflected in Part 5 of Article 132 and Article 178 of the CPC of Ukraine (2012), and the algorithmisation of proof of proportionality is proposed in the doctrine (Hloviuk, 2018). Moreover, the doctrine rightly suggests that proportionality should be recognised as the basis of criminal proceedings (Loskutov, 2023). Failure to prove the previous element excludes the possibility of further proof of the legality of the restriction. The last element has the greatest discretion for law enforcement officers.

Thus, proof of the legality of a potential restriction of human rights should be conducted precisely according to the algorithm of the three-part test developed in the practice of the ECHR. In this case, the following conditions should be considered: 1) the movement of proof is conducted according to the sequence of elements, the transition to the next one without the previous one being proved is excluded; 2) the widest discretion is characteristic of the element of necessity in a democratic society, including proportionality. The legality of human rights restrictions should be enshrined as the basis of criminal proceedings in the CPC of Ukraine. This article, based on a three-part test, should set out the criteria for the legality of the restriction, including the proportionality of the restriction of human rights in a separate

part. It is this article that law enforcement officers will refer to as a general principle in case of doubts about the legality of restricting the right.

Proof of the validity of restrictions on human rights during investigative (search) actions. Conducting investigative (search) actions in the vast majority of cases is associated with restrictions on the fundamental rights and freedoms of a person. Although they differ in the level of their intrusiveness, the possibility of conducting them, in any case, is ensured by the permissibility of applying coercion to a person. That is why the legislator establishes in Part 2 of Article 223 of the CPC of Ukraine (2012) a general rule, according to which the grounds for conducting an investigative (search) action are the availability of sufficient information indicating the possibility of achieving its goal. Accordingly, the legislator directs the subjects conducting a pre-trial investigation to make an initial decision on conducting an investigative (search) action based on the strict need for such a procedural action. I. Voytovych (2023) rightly emphasises the impossibility of strict formalisation in the law of the information that can serve as grounds for conducting investigative (search) actions. That is why the legislator formulates only approximate conditions for investigative situations in which it is advisable to conduct them. Accordingly, although the standard of "necessity" for conducting an investigative (search) action is available in the legislation, its implementation is exclusively at the discretion of the subjects conducting a pre-trial investigation *ex officio*; it cannot be formalised at the regulatory level.

An effective guarantee of ensuring the validity of human rights restrictions is judicial control, which, in the context of the institution of investigative (search) actions, provides for the granting of permission by the investigating judge to conduct them by issuing a court decision in the form of a ruling. According to the provisions of the CPC of Ukraine (2012), the preliminary permission of the investigating judge is a necessary condition for conducting a number of the most intrusive investigative (search) actions. By the decision of the investigating judge, the vast majority of implicit investigative (search) actions are also conducted.

The doctrine expresses different opinions about the criteria for assigning to the competence of an investigating judge the authority to grant permission to conduct a particular investigative (search) action. The Ukrainian criminal procedure legislation is also quite dynamic in this regard because this list has been both expanded and narrowed. However, the indisputable idea of judicial control in this segment of Criminal Procedural relations is the level of intrusiveness of a particular investigative (search) action. In other words, judicial control applies to those investigative (search) actions that most substantially restrict the rights and freedoms of persons during a pre-trial investigation. V. Nastyuk *et al.* (2020) believe that judicial control during investigative (search) actions is a safeguard against incompetence, bad faith, and bias of professional participants in criminal proceedings. It is worth agreeing with the author, however, the key advantage of this criminal procedural guarantee is the arbitrariness of resolving such petitions, in which the burden of proving the exceptional need for investigative (search) actions is assigned to the prosecution. The task of the investigating judge as an impartial subject when making a decision on granting permission to conduct an investigative (search) action is to determine the limits of restriction of rights and freedoms during such a procedural action and prevent arbitrariness to the person. These boundaries may have different expressions depending on the specific investigative (search) action being considered. In the case of a search, such restrictions may consist in determining the place of its conduct and the list of things that it is aimed at finding. However, if the investigating judge decides to apply for permission to obtain biological samples for examination, they will consist in determining specific samples and the expert examination that is planned to be conducted. In fact, in this context, the proportionality of restrictions on rights and freedoms when granting permission to conduct investigative (search) actions is manifested.

The assessment of the proportionality of the restriction of rights and freedoms in the context of granting an investigating judge permission to conduct investigative (search) actions is mainly of a promising nature because it consists in determining the potential need for such procedural actions. However, in some cases, it is also retrospective in nature. Such a case, in particular, occurs when the investigating judge considers a request for a search, which was initiated in urgent cases: Part 3 of Article 233 of the CPC of Ukraine (2012). In such a case, the investigating judge will have to make a retrospective assessment of the existence of grounds for entering the person's home or other property without the decision of the investigating judge. A similar situation develops when an investigating judge decides to grant permission to conduct certain secret investigative (search) actions that were initiated in urgent cases defined in Article 250 of the CPC of Ukraine (2012).

The range of circumstances to be established by the investigating judge when deciding requests for investigative (search) actions is differentiated depending on their specific type. Unlike measures to ensure criminal proceedings, the CPC of Ukraine (2012) does not establish circumstances that are universal for all investigative (search) actions but only establishes the above-mentioned general provision that the grounds for conducting an investigative (search) action are the availability of sufficient information indicating the possibility of achieving its goal (Part 2 of Article 223).

The presence of a specific list of circumstances that must be considered by the investigating judge when considering the application is legally defined for the search. Such circumstances, based on the systematic interpretation of Articles 234-235 of the CPC of Ukraine, are: 1) circumstances that indicate that a criminal offence has been committed; 2) things and documents to be found may be evidence in criminal proceedings and are important for establishing its real circumstances; 3) things and documents to be found may actually be in a certain residence or other possession of a person; 4) a search in this particular situation is the most effective, appropriate, and proportional measure (Criminal Procedural Code of Ukraine, 2012).

Special attention in the context of ensuring proportional restriction of rights and freedoms during a search should be paid to the latter circumstance. The fact is that the CPC of Ukraine establishes other, alternative, and less intrusive ways to achieve certain search goals. For example, the instrument of a criminal offence or property that was obtained as a result of its commission can also be obtained by requesting it in accordance with Article 93 of the CPC of Ukraine and applying temporary access to things and documents (Criminal Procedural Code of Ukraine, 2012). According to

V. Mohyla (2021), establishing this circumstance is possible if a reasonable suspicion of committing a criminal offence is identified, which justifies the adoption of such a strict measure and the inability to obtain information by other means. Accordingly, the restriction of a person's right to privacy and the conduct of a search in their home or other possession would be lawful and proportionate in two cases: (1) if the prosecution had taken other, less intrusive measures to achieve the purpose of the search but they had proved ineffective; (2) if the application of less intrusive measures was evidently inappropriate in certain circumstances or would damage the achievement of the purpose of the search.

In some cases, criminal procedure legislation establishes the obligation of judicial control only in cases where a person does not voluntarily consent to certain investigative (search) actions in relation to them or their property. In particular, the absence of voluntary consent is a key condition for granting an investigating judge permission to conduct such investigative (search) actions as an investigative experiment in a person's home or other possession (Part 5 of Article 240), involving a person to conduct a medical or psychiatric examination (Part 3 of Article 242), obtaining biological samples for examination (part 3 of Article 245) (Criminal Procedural Code of Ukraine, 2012).

When considering such petitions, the investigating judge should make sure that the person's will to conduct an investigative (search) action has been established. Only in the absence of such consent may the investigating judge decide whether to grant permission to conduct such investigative (search) actions, concluding that the interest in conducting a full and rapid pre-trial investigation prevails over the private interest of a person, which consists in the inviolability of their rights and freedoms. This model of restriction of rights and freedoms is based on the idea of the primacy of persuasion as a method of regulating criminal procedural relations.

Thus, for example, regarding forced biological sampling, Part 3 of Article 245 of the CPC of Ukraine (2012) is a reference and provides for the consideration of relevant applications in accordance with the procedure provided for temporary access to things and documents. Although these provisions of the Criminal Procedure Code of Ukraine (2012) can be considered related in terms of implementing the function of judicial control, the essence of these procedural actions is quite different. Accordingly, the circumstances to be established when examining applications for temporary access to things and documents are not entirely relevant in the context of granting permission to forcibly take biological samples for examination. When considering and resolving the latter, circumstances such as the absence of a person's voluntary consent to the collection of biological samples, the list of biological samples to be forcibly selected, the type of expert research that is planned to be conducted, and the importance of the circumstances to be established in the course of such research for criminal proceedings are important.

The criminal procedure legislation does not specify the list of substances covered by the concept of biological samples. V. Rohalska *et al.* (2021), analysing related legislation in this aspect, concluded that biological samples should be considered all samples related to human life as a biological being and all samples of biological origin in their classical sense (saliva, blood, semen, sweat, hair, nails, etc.).

The most intrusive type of investigative (search) actions are implicit investigative (search) actions that are conducted in conditions of secrecy when information about the fact and methods of their conduct is not subject to disclosure. The secret restriction of rights and freedoms in the course of conducting implicit (investigative) search actions requires a greater range of guarantees for their protection at the legislative level. From the provisions of Article 246 of the CPC of Ukraine (2012), two key conditions for the legality of conducting secret investigative (search) actions follow: conducting in cases where information about a criminal offence and the person who committed it cannot be obtained in any other way; the condition for the severity of a criminal offence in respect of which criminal proceedings are being conducted (the law establishes only certain exceptions to this rule). Actually, these two conditions must necessarily be established by the investigating judge when considering a request to conduct secret investigative (search) actions of any kind. They generally satisfy the standard of the exceptional need to restrict the right to privacy in a democratic society, formed in the case-law of the ECHR.

O. Kaplina *et al.* (2023), based on the analysis of the case-law of the ECHR, determine the following conditions for the legality of conducting secret investigative (search) actions: 1) predictability; 2) availability of guarantees against abuse; 3) verifiability; 4) exceptional necessity; 5) proportionality of interference and its expediency; 6) inadmissibility of interference in communication of certain subjects. In general, it can be argued that these conditions are reflected at the regulatory level in the CPC of Ukraine (2012). Consequently, circumstances indicating the need for secret investigative (search) actions should exist when the relevant issue is initiated before the investigating judge. In this regard, the ECHR developed the doctrine of prohibiting retrospective justification, formed in the case "Liblik and Others v. Estonia" (Decision of the European Court of Human Rights…, 2019). Its essence lies in the critical attitude to the prosecution's efforts to prove the legality of conducting secret events at the late stages of criminal proceedings when the evidence quite naturally becomes much larger.

The most effective mechanism for ensuring the validity of restrictions on rights and freedoms during investigative (search) actions is judicial control. According to the regulatory model established in the CPC of Ukraine (2012), it applies to those investigative (search) actions that most substantially restrict the rights and freedoms of persons during pre-trial investigation. The main task of judicial control during investigative (search) actions is to determine the limits of restriction of rights and freedoms during such a procedural action and prevent arbitrariness to a person. The main advantage is the arbitral method of resolving such petitions, in which the burden of proving the exceptional need for investigative (search) actions is assigned to the prosecution. Such a mechanism for exercising judicial control over the conduct of investigative (search) actions allows ensuring proportional restriction of rights and freedoms on the part of an impartial subject.

Legality of human rights restrictions and measures to ensure criminal proceedings. The Criminal Procedure Code of Ukraine (2012) pays quite a lot of attention to establishing the range of circumstances that must be proved for such a restriction. This is done at several levels: 1) general (Article 132); 2) Group for preventive measures; 3) special for individual measures, including individual preventive measures. The general level of proof applicable as the basis

for all measures to ensure criminal proceedings is related to the establishment of the circumstances specified in Part 3 of Article 132. Its wording indicates the need to prove, firstly, a legitimate goal (although it is formulated not in these provisions but in the very definition of measures to ensure criminal proceedings). More specifically, the legitimate goal is spelt out in Article 177 of the CPC of Ukraine (2012) for preventive measures. In the absence of reasonable suspicion, it does not appear that the interference is prescribed by law because the law provides for such interference to ensure the effectiveness of criminal proceedings. Such proceedings are initiated only if there are circumstances that may indicate the commission of a criminal offence, and there must be sufficient grounds for such notification to report the suspicion. As for necessity in a democratic society and proportionality, they are evidenced by paragraphs 2 and 3 of Part 3 of Article 132 of the CPC of Ukraine (2012), considering the determination of the degree of restriction of rights by the needs of pre-trial investigation and the possibility of achieving the effectiveness of criminal proceedings.

These elements of the three-part test are objectified in the local proof subject. According to M.O. Kalinovska (2021), it should also be understood in terms of the circumstances of the inner conviction about the need to apply the measure. This study does not agree with this because such an understanding concerns the individual psychological activities of law enforcement officers, which cannot be regulated by law. Even more specifically, the elements of the three-part test are spelt out in Article 176 of the CPC of Ukraine (2012) regarding preventive measures because it clarifies the impossibility of preventing risk or risks by other measures. This reflects the balancing of interests in criminal proceedings. I. Bespalko (2020) writes precisely in the context of preventive measures about the specifics of the restriction's ownership, necessity, and reasonableness (the ratio of the restriction of rights to the one that will take place when a person is brought to justice. However, I. Hloviuk (2018) considers that reasonableness is manifested in the fact that the investigating judge should assess the appropriateness of more lenient preventive measures and consider the circumstances provided for in paragraphs 2-11 of Article 178 of the CPC of Ukraine (2012). The second position should be agreed upon with only one clarification: not only the use of milder preventive measures but also the need for any coercive measure, in general, should be considered.

At a special level of evidence, the provisions of the CPC of Ukraine (2012) regarding certain measures to ensure criminal proceedings should be reviewed. In particular, the legitimate purpose is detailed for temporary restriction of the use of a special right in Part 1 of Article 148; for removal from office in Article 157; for temporary access to things and documents in Article 163, seizure of property in Article 170. Notably, under the Article of CPC of Ukraine (2012), which is used in proceedings for the use of compulsory medical measures, the legitimate purpose of these measures differs from the legitimate goal under Article 177 of CPC of Ukraine (2012), which O.I. Tyshchenko and I.A. Titko (2020) drew attention to.

Regarding the assessment by the investigating judge of the proportionality of restrictions on the right to work and non-interference in private life, it can be concluded from the provisions on the consideration by the investigating judge of the consequences of temporary restrictions in the use of special rights, the consequences of removal from office for other persons, and the justification for the need to seize things and originals or copies of documents. Algorithmisation is proposed to assess the legality of restricting the inviolability of property rights during the seizure of property, which is based on a three-part test, to resolve the issue of property seizure (Kaplina & Fomin, 2020). As for proportionality, it is indicated in the norms regarding the consideration by the investigating judge of the reasonableness and proportionality of the restriction of the right (Article 173) (Criminal Procedural Code of Ukraine, 2012). Such detailing is precisely for the seizure of property due to its intrusive nature, namely, the possibility of restricting or even depriving a person of the opportunity to exercise the rights of the owner.

Conclusions

The study considers the features of proving the restriction of human rights in Ukraine in a pre-trial investigation based on the methodology for assessing the legality of the restriction of human rights, highlighted by the ECHR. In particular, general issues of interference with constitutional, conventional and procedural rights in the pre-trial investigation; interference with rights in the context of measures to ensure criminal proceedings, interference with rights in the context of conducting investigative (search) actions are disclosed. Arguments are given that the three-part test is implicitly fixed in the CPC of Ukraine, because: the existence of the principles of the rule of law and legality with a call to the practice of the ECHR indicates interference under the law; the provisions of the CPC of Ukraine provide for legitimate goals of restriction of rights, although they are not called that; the wording regarding the assessment of opportunities to achieve the goal by other, less intrusive means, indicates an element of necessity in a democratic society and the proportionality of interference.

It is indicated that the CPC of Ukraine considers the elements of the three-part test and measures to ensure criminal proceedings. Its elements in the activities of an investigating judge should be considered at three levels: General; Group; Special. The final assessment of proportionality is provided by the investigating judge, which is reflected in some provisions of the Criminal Procedure Code of Ukraine. Objectification of the elements of the three-part test is conducted in the circle of circumstances that must be established to make a decision on the application to the investigating judge. For a more complete consideration of proportionality for the application of preventive measures, it should be interpreted more broadly than it is written in Article 176 of the Criminal Procedure Code of Ukraine, and it should be assessed whether the effectiveness of proceedings is possible in the context of behaviour without any preventive measure The assessment of the proportionality of the restriction of rights and freedoms in the context of granting an investigating judge permission to conduct investigative (search) actions can be both prospective and retrospective, depending on whether it is a question of allowing them to be conducted, or whether it is a question of authorising an investigative (search) action that has already been immediately initiated.

The Criminal Procedure Code of Ukraine does not establish the range of circumstances that should be considered when granting permission to conduct all investigative (search) actions. Thus, the range of circumstances to be

established by the investigating judge when deciding requests for investigative (search) actions is differentiated depending on their specific type. A property search is one of the most intrusive investigative (search) actions provided for by the Criminal Procedure Code of Ukraine. Ensuring proportionate restriction of rights and freedoms during the conduct of a search requires the establishment by the investigating judge of circumstances indicating that: other, less intrusive measures were taken by the prosecution party to achieve the purpose of the search but were ineffective; the use of less intrusive measures is evidently inappropriate in certain circumstances or will damage the achievement of the purpose of the search. When considering and resolving requests for compulsory selection of biological samples for examination, such circumstances as: the absence of a person's voluntary consent to the collection of biological samples; the list of biological samples to be forcibly collected; the type of expert examination that is planned to be conducted and the importance of the circumstances to be established in the course of such investigation for criminal proceedings are important.

Secret investigative (search) actions are the most intrusive type of investigative (search) actions. CPC of Ukraine puts forward two key conditions for the legality of conducting implicit investigative (search) actions: conducting in cases where information about a criminal offence and the person who committed it cannot be obtained in any other way; conducting exclusively in criminal proceedings for serious or especially serious crimes. They must necessarily be established by the investigating judge when considering a request to conduct secret investigative (search) actions of any kind. These provisions reflect the standard of the exceptional need to restrict the right to privacy in a democratic society, formed in the case-law of the ECHR.

Further areas of research may include an analysis of the effectiveness of investigative judges' activities regarding the inadmissibility of prospective illegal restrictions on human rights, which is possible on the basis of an analysis of statistics and a content survey.

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Conflict of interest

None.

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Доказування правомірності обмеження прав людини в Україні у досудовому розслідуванні

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Анотація. Актуальність теми дослідження полягає у формуванні науково обґрунтованої концепції доказування правомірності обмеження прав та свобод під час досудового розслідування, що ґрунтується на триетапному тесті виправданості втручання, сформульованому у юриспруденції Європейського суду з прав людини. Метою дослідження було встановлення загальних критеріїв правомірності обмеження прав та свобод під час досудового розслідування з їх експлікацією на конкретні процесуальні дії та рішення, що характеризуються високим ступенем інтрузивності. Основні методи дослідження – антропологічний, аксіологічний, діалектичний, системний, формально-юридичний, а також метод експертних оцінок. Доведено, що алгоритмізація вирішення питання про обмеження прав людини у досудовому розслідуванні має здійснюватися за методологією трискладового тесту: передбачення у законі; мети втручання, що має бути легітимною; чи вимагається таке втручання у демократичному суспільстві. Цей тест застосовний до усіх інтрузивних заходів у кримінальному провадженні, однак, має особливості залежно від заходу та характеру інтенсивності обмеження прав. Аргументовано, що елементи трискладового тесту при застосуванні заходів забезпечення кримінального провадження об'єктивуються у локальному предметі доказування, який має три рівні: 1) загальний (ст. 132 Кримінального процесуального кодексу України); 2) групових для запобіжних заходів; 3) спеціальний для окремих заходів забезпечення кримінального провадження, у тому числі запобіжних заходів. На прикладі нормативної регламентації окремих слідчих (розшукових) дій встановлено, що забезпечення пропорційності їх застосування здійснюється шляхом визначення слідчим суддею меж обмеження прав та свобод при проведенні такої процесуальної дії та недопущення свавілля до особи. Доказування правомірності обмеження прав при заходах забезпечення кримінального провадження є найбільш деталізованим, має специфіку залежно від заходу, який застосовується, та стосовно кого застосовується. Практичне значення роботи полягає у можливості використання наведених у ній алгоритмів при встановленні елементів локального предмету доказування слідчими суддями

Ключові слова: верховенство права; пропорційність; Європейський суд з прав людини; докази; судовий контроль; слідчі (розшукові) дії; заходи забезпечення кримінального провадження

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Forced labour migration as a threat to social and economic human rights and a factor of influence on the national labour market and business entities

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Abstract. The full-scale military invasion of the Russian Federation on the territory of Ukraine led to the emergence of a number of substantial destabilising processes and phenomena of a socio-economic nature, one of which is the strengthening of forced emigration of a substantial number of the economically active population of Ukraine. The purpose of the study was a comprehensive review and analysis of the current scientific legacy of papers devoted to the examination of the features, state, and problems of forced labour migration and identifying its impact on the national labour market and economic entities. The theoretical and methodological basis of the study as made up of general scientific heuristic methods, historiographic analysis and synthesis, comparison, and systematisation. Based on the results of the study, it was established that in the modern scientific discourse, the essence of forced labour migration is defined as a complex and dangerous socio-economic phenomenon that manifests itself in the uncontrolled movement of the population for the purpose of employment within the country and extends to other countries of the world. It was determined that most of the researchers are inclined to argue that the scale of forced labour migration has acquired threatening importance, the threatening trends of which were particularly acute during the war of the Russian Federation against Ukraine in 2022-2023,

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during which there is a critical increase in the volume of forced labour migration from Ukraine to European countries. There is an opinion among the scientific community that the processes of forced labour migration cause substantial problems in the national and international labour market. Most of the researchers argue that the most substantial problem caused by forced labour migration is the increase in the unemployment rate, which in Ukraine during the war reached 35% of the economically active population, which substantially unbalances the international and European labour markets, causing it to increase competition for highly paid jobs. Based on the assessment of researchers' opinions, the main ways to reduce imbalances in the development of the labour market in Ukraine and methods for minimising the risks of unemployment growth are proposed. The obtained research results can be used to create generalising reviews and more effectively work with the bibliography on the subject

Keywords: migration; labour force; labour resources; migration growth; employment; unemployment; business sustainability of enterprises

Introduction

Modern challenges and dangers have substantially reformatted the established world economic order and led to the emergence of substantial destabilising factors of a socio-economic nature that negatively affect the functioning of national economies and societies in each of the countries of the world pose threats to ensuring economic and social human rights, defined in the International Covenant on Economic, Social, and Cultural Rights (1966). The technological breakthrough and the industrial revolution based on digitalisation and the strengthening of the role of information and communication systems have further increased the importance of dynamic changes and require effective management of stability mechanisms. Under these conditions, the processes of globalisation and megaregionalisation have begun to develop especially intensively, blurring the borders in national economies and provoking the unification and unity of the functioning of the financial systems of the world's countries. It is evident that new challenges cause changes in the development of the economy, require providing new methods of conducting financial and economic activities of business entities and intensifying the attraction of innovations both at the macro and micro level. Therefore, substantial scientific developments are aimed at finding optimal ways to balance socio-economic phenomena and processes and ensuring the stability and sustainability of international and national economies.

One of the negative consequences of the Russian war against Ukraine is the violation of the structural integrity of the internal labour market and the emergence of such a new uncontrolled socio-economic phenomenon as forced labour migration. It is evident that in conditions of danger and uncertainty, it is impossible to track the directions of movement of the labour force and the organisation of the life of the population in a new place. The problems of forced labour migration in Ukraine were updated back in 2014 as a result of the annexation by the aggressor country of the Autonomous Republic of Crimea and substantial territories of the Donetsk and Luhansk regions, which is sufficiently thoroughly covered and proven in studies, and especially deepened in 2022 during the period of a full-scale invasion when the forced labour migration has acquired an alarming scale and is estimated by multimillion flows of internationally and internally displaced migrants. Therewith, a substantial number of labour migrants randomly settled in relatively safe territories of Ukraine and left its borders, which provoked a critical impact on the socio-economic, medical, and educational spheres of recipient regions and foreign countries that accepted refugees and displaced persons. It is also an absolute fact that the national and international labour markets, which have become the main source of obtaining financial resources to ensure life and cover the needs of the population, have suffered a substantial destabilising impact under such circumstances.

Evidently, a long period of financial, economic, and socio-political instability in Ukraine is accompanied by certain scientific developments to find ways to reduce the imbalances of the national labour market, and certain mechanisms for balancing employment and unemployment indicators are being formed, which is reflected in a number of publications by leading national and foreign researchers. In particular, the study by N.O. Komarnytska *et al.* (2022) is notable which identified the negative impact of forced migration of Ukrainians on the labour market and the national economy, established the need for statistical observations on the number of internally displaced persons and the number of people moving outside the country, and also proved the existence of substantial problems in ensuring the forced labour migrants with workplaces.

Ye. Rudnichrnko *et al.* (2019) prove the dominant influence of external migration processes on the labour market of Ukraine and argue that substantial directions of migration labour flows were formed in Ukraine in the pre-war period, as a result of which the countries of the European Union were forced to develop and implement a special migration policy. M. Tsymbaliuk *et al.* (2023), examining the problems of forced labour migration at the international level, concluded that substantial migration flows from Ukraine caused serious problems, which led to the need to review the legislative aspects of economic-legal regulation of migration processes in different countries of the world and coordinate the interests of employers with the interests of the local population and international migrants. It is clear that the problem of forced labour migration is gradually being transformed from the plane of the national policy of ensuring socio-economic, socio-political, and financial stability to the plane of the need to form a special international migration policy, the regulatory mechanisms of which are aimed at regulating the interests of all participants in such relations at different levels (Blikhar *et al.*, 2022).

The strengthening of labour migration of the population of Ukraine is actively investigated by J. Vogt Isaksen (2019) and K. Sandvig and A. Garnier (2022), who argue that forced labour migration from Ukraine has acquired threatening proportions and is intensifying in the context of socio-political and military instability, causing a migration crisis on the European continent. F. Sakka & M. Ghadi (2023) believe that the processes of labour migration have a mixed impact on the economy of the countries from which the population leaves and to which they arrive since the earned funds, as a

rule, are returned to the country of origin of migrant workers, which leads to the stimulation of their economic growth.

One of the biggest problems of forced labour migration, according to H.S. Alkaabi *et al.* (2023), is substantial losses in intellectual resources and human resources by countries from which migrants leave in search of work. Therewith, the loss of human capital, according to K. Tipayalai (2020) and F. Tanrikulu (2020), threaten to reduce the pace of innovative development of the donor-countries economies and oversaturate the labour markets of recipient countries with the workforce. L. Chernobay *et al.* (2021) and M. Tsymbaliuk *et al.* (2023) argue that forced labour migration, combined with substantial losses of human capital, leads to a decrease in the competitiveness of enterprises and has a destructive impact on the development of business activities both in Ukraine and in the countries of the world.

Such trends are negative and prove the importance of balancing migration processes at the national, regional, and international levels. Considering the above, the problems of examining the features and problems of forced labour migration and its impact on the national labour market are extremely relevant and require additional in-depth research.

The purpose of the study is a comprehensive review and analysis of the current scientific legacy of papers devoted to the examination of the features, state, and problems of forced labour migration and identifying its impact on the national labour market and business entities in the context of increasing dangers of war in Ukraine. The specified purpose of the study determined the need to solve several main tasks, namely: determine the essence of the concept of forced labour migration, analyse the main trends in indicators of forced labour migration, and suggest ways to solve the problems of activation of forced labour migration.

The methodological basis of the research is made up of general scientific heuristic methods: historiographic analysis and synthesis, comparison, and systematisation. Historiographic analysis and synthesis allowed reviewing the evolution of research on the subject of forced labour migration in the context of military conflict, considering various approaches and research directions. The analysis of various approaches helped to gain a more complete understanding of the problem. A comparison of different studies helped to identify similar and different approaches to the examination of the problem of forced labour migration in the context of military conflict. This allowed avoiding one-sidedness in the assessment and getting a more objective picture of the situation. By systematising the results of various studies, general trends in the scientific understanding of the impact of forced labour migration on the national labour market and business entities were identified.

Examination of quantitative indicators of the problem of population migration

The investigation of forced labour migration and its impact on the national labour market and business in Ukraine for a long period of time has become particularly relevant and substantial, which is due to the large-scale movement of the country's population from the zone of active hostilities in the Eastern and Southern regions of the country, the annexation of substantial territories of Ukraine, and those that systematically suffer from shelling by the aggressor country. It is currently impossible to make a complete and reliable estimate of the number of internally displaced persons both inside and outside the country. However, certain empirical studies were conducted, and the spatial disintegration of migration flows at the regional and international levels were proved. It is evident that the international, national, and regional labour markets have undergone substantial changes, which are particularly critical in the frontline, western regions of Ukraine, and in the countries bordering Ukraine. As of December 2023, the number of refugees from Ukraine who have crossed the national border and are located on the territory of other countries is 6,308,600 people, of which 5,905,000 people are located in European countries (Ukrainian Refugee Situation, 2023). The results of detailed studies on the number of forced migrants from Ukraine in the context of the main countries of the world are shown in Figure 1.

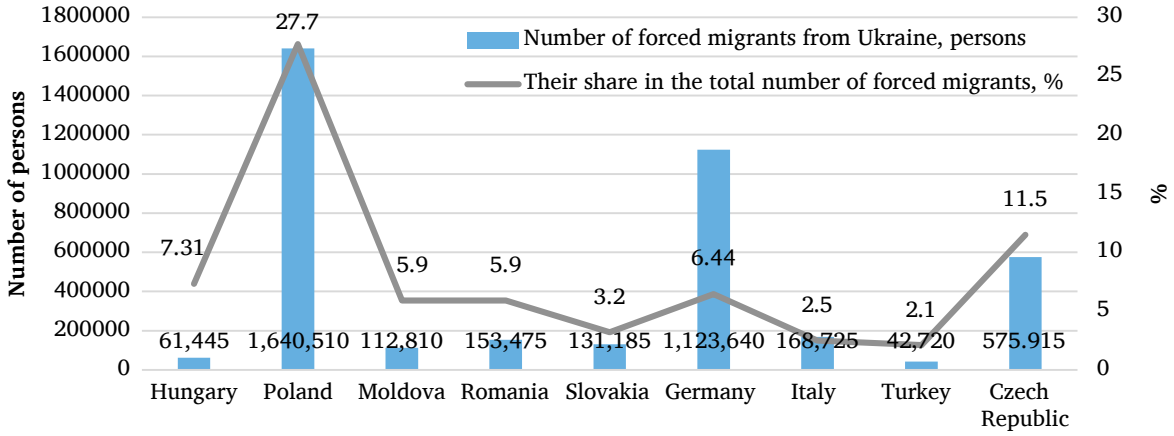

Figure 1. The total number of forced migrants from Ukraine in certain countries of the world and their share in the total number

Source: compiled by the author based on the studies of the International Labour Organisation (2022), Nearly 5 million jobs have been lost in Ukraine since the start of the russian aggression, says ILO. International Labour Organization (2022), UNHCR (2023)

The analysis of these data shows that the largest share of internally displaced migrants is concentrated in the countries of the European Union, in particular, in Poland 1,640,510 people (27.7% of the total number), in Germany 1,123,640 people (6.44% of the total number) and in the Czech Republic 575,915 people (11.5% of the total number).

Therewith, there is a tendency that even in the pre-war period, these countries were the leaders in attracting labour migrants from Ukraine, so it is quite reasonable for Ukrainian refugees to go to Poland, Germany, and the Czech Republic, where they can find work to ensure their lives.

As for forced labour migration within the regions of Ukraine, it is a rather difficult situation, and it is extremely difficult to obtain clear and reliable data as of December 2023. According to the results of the study conducted by the International Organisation for Migration and its representative office in Ukraine (International Organisation for Migration, 2023) as of the end of September 2023, there are 3.7 million internally displaced persons in Ukraine, 52% of the total number of which is located in the Dnepropetrovsk (14%), Kharkiv (13%), Kyiv (8%), Odesa (7%) regions and the city of Kyiv (10%). The remaining 48% of the total number of internally displaced migrants are located in other regions. A detailed description of the percentage reflection of these data is systematised in Figure 2 in the context of regions of Ukraine.

It is an absolute fact that internal migrants mainly seek temporary movement in territories that are close to their permanent place of residence in terms of geographical location, so the frontline regions received the largest number of internally displaced persons (International Organisation for Migration, 2023). Accordingly, substantial disproportions of development are observed in the labour market of those regions where the largest number of Internally displaced persons is located, namely the Dnepropetrovsk, Kharkiv, Kyiv, Odesa regions and the city of Kyiv, where there is a glut of labour supply and increased competition for highly paid jobs.

In addition, a substantial problem in Ukraine is a substantial reduction in the number of business entities and, accordingly, the number of jobs. According to the Opendatabot state service, for the period from March 2022 to November 2023, 6,482 enterprises in Ukraine are at the stage of termination (Opendatabot, 2023). The largest number of cases of termination of business activities and curtailment of business was recorded in the city of Kyiv (893), the Lviv (526), Dnipropetrovsk (479), Kyiv (368), and Kharkiv (318) regions. Therewith, it was determined that the industry structure of business termination shows the highest indicators for the closure of public organisations (16.5%), wholesale trade institutions (12.7%), retail trade (4.0%), agricultural and hunting entities (7.6%), cultural institutions (5.8%), companies operating in the real estate sector (5.1%), educational institutions (4.4%), subjects in the field of public administration and defence (3.9%), and subjects in the construction sector (2.9%). A small part of such business entities intend or have already relocalised their activities to relatively safe territories of Ukraine, however, it is quite difficult, and sometimes impossible, to completely solve the problems of the national labour market in the context of the continuation of the war.

Therefore, the aggravation of the problem of rising unemployment in Ukraine is a fact. However, this problem should be considered and investigated in the context of the analysis of both countries bordering Ukraine and those countries where the largest number of forced migrants from Ukraine is located. The corresponding empirical calculations for identifying trends in the unemployment rate in Ukraine and in certain European countries are shown in Figure 2.

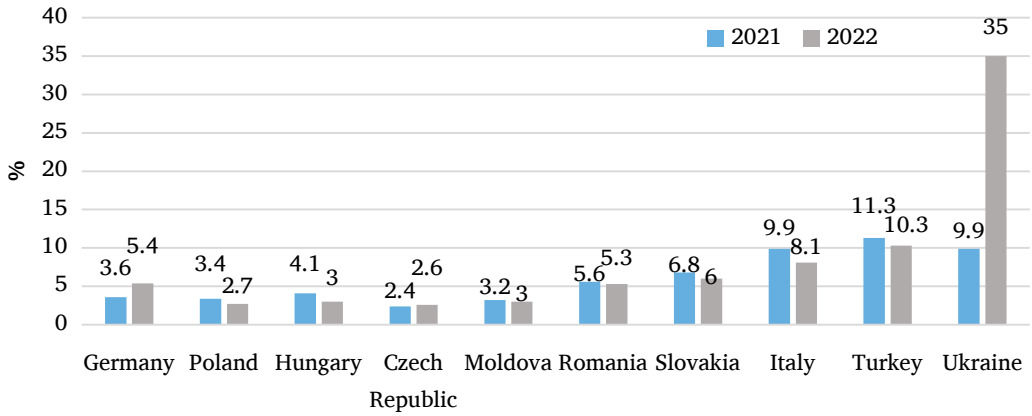

Figure 2. The main trends of changes in the unemployment rate in Ukraine and in certain European countries in the pre-war period and during the war of Russia against Ukraine, 2021-2022
Source: compiled by the author based on the studies by the International Labour Organisation (2023)

The results of the study prove that the extreme crisis situation regarding the growth of the unemployment rate during the war in Ukraine, the value of which has reached 35% of the economically active population. As for other European countries, there is an ambiguous situation regarding the parameters of unemployment. Notably, in some of them, in particular, Germany, in 2022, there is also an increase in the unemployment rate from 3.6% in pre-war 2021 to 5.4% in 2022 (the rate of change is +1.8%) and in the Czech Republic from 2.4% in 2021 to 2.6% in 2022. In other countries, on the contrary, there was a decrease in the value of the unemployment rate. Thus, it can be argued that forced labour migration from Ukraine caused an unprecedented increase in the unemployment rate in the country to 35% and a substantial imbalance in the national labour market, and the need to reduce unemployment rates gradually transformed into one of the biggest problems caused by forced labour migration. Data provided by the International Labour Organisation (International Labour Organisation, 2023) show that the increase in the flow of forced labour migrants from Ukraine has had a positive impact on the unemployment rate, reducing it in Poland, Hungary, Moldova, Romania, Slovakia, Italy, and Turkey. However, the labour market of European countries has experienced a

substantial destabilising effect from the activation of illegal employment of migrant workers from Ukraine and the intensification of shadow wages, which, in turn, reduces the pace of economic development in such countries.

Some aspects of the problem of Ukrainian migration in scientific research

In the conditions of instability and uncertainty, which are aggravated by the challenges of Ukraine's armed confrontation with the unprovoked aggression of the Russian Federation, a new global problem has emerged – the uncontrolled movement of the population within the country where active military operations are being conducted, and on the territory of other countries of the world, which, in turn, activates the development of such a dangerous socio-economic phenomenon as forced labour migration. Problematic aspects of examining the essence of forced labour migration and identifying its impact on the national labour market and business entities in the context of the increasing dangers of Russia's war against Ukraine are reflected in the papers of many Ukrainian researchers. In particular, studies in this direction by E.M. Libanova *et al.* (2022) and A.I. Suprunovsky (2022) are notable. They have common views on the analysed issues and argue that the full-scale invasion of the Russian Federation on the territory of Ukraine provoked a surge in an unprecedented humanitarian crisis not only in Ukraine but also around the world, as a result of which the sphere of international migration has been reformatted in the direction of isolation of forced migration. Moreover, O.V. Lytvynchuk and A.Y. Yurkivsky (2023) consider this situation to be an aggravation of the migration crisis, the settlement of which substantially depends on the effectiveness of state management of migration processes both at the national and international levels. Therefore, the statement of O. Pyshchulina *et al.* (2023; 2024), who claim that forced labour migration is one of the biggest geopolitical challenges of our time, is justified. A similar opinion is shared by O.P. Mulska (2023) and S. Lykholat *et al.* (2020), who are also convinced that the state policy of managing migration processes can become an effective tool for regulating internal and external migration of the population.

Researchers from Western Europe and North America are also actively interested in this issue because forced labour migration poses a substantial threat to the international labour market and destabilises the processes of balancing employment and unemployment in those countries where Ukrainian refugees and displaced persons are sent. In this context, J. Vogt Isaksen (2019) and K. Sandvig and A. Garnier (2022) prove that the growth of labour migration flows from Ukraine causes increased competition in the international labour market and destabilises it. Therewith, researchers note that the insubstantial positive effects of forced labour migration apply to business entities that receive additional opportunities to attract highly qualified employees to their activities. Moreover, M. Al-Dalahmeh and K. Dajnoki (2021) and N. Havlovska *et al.* (2019) prove that forced labour migration affects the establishment of wages in those countries where migrants are sent, and economic entities of recipient countries get the opportunity to attract highly qualified employees with lower wages, which allows them to optimise and save their financial resources. However, researchers also note the positive aspects of forced labour migration because it stimulates economic growth, which is supported by F. Fasani *et al.* (2020) and S. Stróż *et al.* (2023). Thus, F. Fasani *et al.* (2020) note that along with the problems of forced labour migration, there is a problem of illegal migration, the scale of which is constantly growing and spreading to different countries of the world, causing the growth of the shadow sector of the economy of countries and provoking the desire of subjects to get cheap labour without further guarantees of social protection of such employees. In this context, M. Blikhar *et al.* (2023) and A. Sokar *et al.* (2022) argue that under these conditions, the international labour market is intensifying the processes of shadow employment, the problems of which have acquired a particularly threatening scale in Eastern European countries.

M. Dias-Abeu (2021) sees the solving of the identified problems at the international level in the formation of effective national legislation in the field of labour relations regulation and argues that only the introduction of relevant legal norms will determine and consolidate the organisational and legal mechanisms for the employment and use of the labour of migrant workers. It is clear that, as noted by M. Blikhar *et al.* (2023), improving the national labour legislation and including problematic aspects of regulating forced labour migration in conditions of instability and increasing military challenges in it is a prerequisite for the transformation of the national labour market and solving the most substantial problems of its functioning. O. Malynovska (2022) believes that solving the problems of forced labour migration requires a comprehensive approach and intensification of joint efforts of Ukraine and recipient countries in the direction of forming mechanisms to ensure appropriate conditions for the return of refugees to Ukraine. However, achieving the desired result, according to A. Gaidutskyi (2022) is quite a problematic task, as the massive outflow of economically active labour continues, and the lack of prospects for the return of migrants to the country creates additional threats to ensure the development of the economy and society and also turns out to be a substantial obstacle to the post-war reconstruction of Ukraine, as the country has and deepens the shortage of labour resources necessary for the implementation of strategic plans and programmes.

O. Yadlovska (2022) suggests that the problems of forced labour migration will continue to deepen, and the consequences will be noticeable in the post-war period. This thesis is justified by the researcher from the position of unwillingness of a substantial proportion of migrants from Ukraine to return home, and, if possible, they will seek to reunite their families outside the country, which will lead to the mass departure of men abroad after the lifting of the ban on their movement outside Ukraine.

S. Becker and A. Ferrara (2019) quite thoroughly examined the problems of migration and established that its main types are voluntary and forced labour migration. Accordingly, researchers claim that binary connections can be traced between these concepts, and there are substantial differences. According to researchers, voluntary labour migration is caused by the desire to obtain material benefits to ensure the highest level of financial status in society. On the other hand, forced labour migration is triggered by the consequences of natural disasters and military conflicts and is usually a temporary phenomenon.

D. Bobrova and O. Don (2023) and M. Kopytko *et al.* (2022) highlight the current problems of the labour market of Ukraine, which were actualised in connection with

the introduction of a special legal regime of martial law in the country and substantially unbalance it, the most substantial of which include: (1) large-scale job losses due to the destruction of business entities, restrictions on access to them in territories not controlled by the Ukrainian side and the destruction of infrastructure facilities; (2) low wages; (3) rising unemployment; (4) increased economic instability, rising inflation, and declining purchasing power of the population; (5) imperfect current legislation, weak tax mechanisms, and increased corruption; (6) an increase in the number of unofficially employed workers and problems of their social protection; (7) the introduction of preferential working conditions for internally displaced workers in the European Union countries. Therefore, in view of the above, S. Sliusar (2018) emphasises the need to strengthen state regulation of the country's labour market because substantial labour losses cause substantial obstacles in the recovery and development of the economy, so the following will help in solving the existing problems: (1) attracting different segments of the population to employment by creating additional jobs; (2) reallocation of excess labour in those sectors of the economy where it is most concentrated; (3) ensuring equal and inclusive access to projects that ensure the life of the population (providing opportunities for obtaining quick short-term income); (4) ensuring equal access to retraining of labour resources, their re-eductaion, including using infrastructure and digital training technologies; (5) formation of effective mechanisms for the reintegration of migrants; (6) stimulating employment of partially unemployed, unemployed, and low-skilled youth and women, especially during the post-war reconstruction period; (7) increased involvement of territorial communities and public organisations in the process of increasing employment indicators. Therewith, N. Chernenko (2023) concluded that solving the problems of forced labour migration is impossible without stabilising the national labour market and ensuring the opportunities for migrants to get jobs in their country of origin and the security of their stay in Ukraine.

K.B. Bannikova (2023) determined that the national labour market is flexible and quickly adapted to the challenges of war, however, forced labour migration from Ukraine caused a decrease in individual professional groups and substantial problems of mass uncontrolled population movement. Moreover, the researcher conducted a study on regional aspects of forced labour migration and identified which regions are most affected by it. Therewith, T.H. Vasyltsiv *et al.* (2022), having deepened the examination of regional aspects of the development of the labour market of Ukraine, established that under martial law, three types of transformation of the national labour market are identified, and the main threats to the labour market are an increase in the unemployment rate, a deterioration in the well-being of the population of the regions and a decrease in their purchasing power, and an increase in the burden on social infrastructure, increased competition for jobs, and a shortage of certain categories of professionals. H.O. Komarnytska *et al.* (2022) state the impossibility of solving the problems of employment of internally displaced persons within Ukraine in the near future due to the lack of resources necessary to stabilise the labour market and the impossibility of creating new jobs in the context of the introduction of a special legal regime of martial law. Therefore, the main efforts at this stage should be directed at the search for effective methods to ensure the functioning of international and national labour markets and to the formation of mechanisms for regulating forced labour migration.

The analysis of the current state of migration research allows stating that substantial problems caused by forced labour migration and its negative impact on the national labour market and on business entities in the context of increasing dangers of the war of the Russian Federation against Ukraine remain relevant and unresolved. Therefore, considering the existence of crisis conditions in the national labour market, it is advisable to identify areas in which it is necessary to conduct further active scientific research and developments:

- search for a scientific basis for the formation of effective mechanisms for regulating the national labour market and balancing the processes of employment and unemployment;
- research ways to stimulate the economic activity of business entities, in particular, representatives of small and medium-sized businesses, and intensify their attraction and innovation;
- analysis of the possibilities of ensuring the coherence of the activities of bodies that manage the processes of forced labour migration;
- development of proposals by researchers to improve the current national legislation in the field of regulating labour relations and protecting the rights of the population to work;
- formation of a scientifically based effective migration policy and prevention of illegal employment;
- research on the possibilities of strengthening social protection of forced labour migrants and protection against unjustified dismissals and part-time official employment;
- examination of prospects for legalising the legal labour activity of forced labour migrants through the conclusion of relevant Interstate contracts;
- identification of possible ways to activate re-immigration processes and introduction of accounting systems for forced labour migrants both at the national and international levels.

Conclusions

Thus, based on the results of a comprehensive review and analysis of modern scientific approaches to the examination of the features, state, and problems of forced labour migration, it was established that the essence of forced labour migration is identified in its interpretation by the majority of Ukrainian and foreign researchers as a dangerous socio-economic phenomenon, which is difficult to control, and tracing of population movement moved to the territory of other countries of the world or to relatively safe territories of the country for the purpose of employment is problematic. Researchers proved the substantial importance of forced labour migration for the country's economy and society. It was established that in the modern scientific discourse, the problems of forced labour migration were actualised under the influence of challenges and dangers of a full-scale invasion of the Russian Federation on the territory of Ukraine and especially worsened in the context of increasing socio-political and socio-economic instability, which threatens to ensure economic and social human rights. It was determined that most researchers prove the substantial impact of forced labour migration on the national and international labour market and business entities. Therewith, there is an opinion among the scientific community that threatening trends

in the growth of the number of internally displaced labour migrants within Ukraine and abroad substantially unbalance the International and European labour markets, causing increased competition for highly paid jobs and causing an increase in the unemployment rate, especially in Ukraine, the parameters of which have reached the level of 35% of the economically active population. Modern research on these subjects is characterised by the systematisation of the main problems of forced labour migration, the solution of which will reduce the disparity in the development of the labour market in Ukraine and Europe, and minimise the crisis conditions on them and the risks of unemployment growth. Some scientific approaches to finding effective ways to reduce the scale of forced labour migration are based on the need to form a powerful mechanism for state regulation of migration processes, capable of providing appropriate conditions for the return of labour migrants to Ukraine.

Promising areas of further scientific research can be the study of scientific approaches to the search for potential opportunities for cooperation between Ukraine and European countries, where the largest number of labour migrants from Ukraine are directed towards forming accounting systems for forced labour migrants and stimulating the processes of re-emigration of the population.

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Conflict of interest

None.

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Вимушена трудова міграція як загроза соціальним та економічним правам людини та фактор впливу на національний ринок праці та суб'єктів господарювання

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Анотація. Повномасштабне військове вторгнення РФ на територію України зумовило виникнення низки вагомих дестабілізуючих процесів та явищ соціально-економічного характеру, одним із яких є посилення вимушеної еміграції значної кількості економічно активного населення України. Метою статті був комплексний огляд та аналіз сучасного наукового доробку праць, присвячених вивченню особливостей, стану та проблем вимушеної трудової міграції та виявлення її впливу на національний ринок праці й суб'єктів господарювання. Теоретико-методологічну основу проведеного дослідження становили загальнонаукові евристичні методи, історіографічного аналізу та синтезу, порівняння та систематизації. На підставі результатів, проведеного дослідження встановлено, що в сучасному науковому дискурсі сутність вимушеної трудової міграції визначається як складне й небезпечне соціально-економічне явище, яке проявляється у неконтрольованому переміщенні населення з метою працевлаштування в межах країни та поширюється на інші країни світу. Встановлено, що більшість із науковців схильні стверджувати, що масштаби вимушеної трудової міграції набули загрозливого значення, загрозливі тенденції яких особливо гостро постали в період війни РФ проти України у 2022-2023 рр., за час якої спостерігається критичне зростання обсягів вимушеної трудової міграції із України в країни Європи. Серед наукової спільноти існує думка, що процеси вимушеної трудової міграції обумовлюють значні проблеми на національному та міжнародному ринку праці. Більшість із науковців стверджують, що найбільш вагомою проблемою, що спричинена вимушеною трудовою міграцією, є зростання рівня безробіття, яке в Україні в умовах війни досягнуло 35% економічно активного населення, що істотно розбалансовує міжнародний та європейський ринок праці, спричинюючи на ньому посилення конкурентної боротьби за високо оплачувані робочі місця. На основі вивчення думок вчених, запропоновано основні шляхи зниження диспропорцій розвитку ринку праці України та методи мінімізації ризиків зростання безробіття. Одержані результати дослідження можуть бути використані науковцями для створення узагальнюючих досліджень з тематики та більш ефективного опрацювання бібліографії тематики

Ключові слова: міграція; робоча сила; трудові ресурси; міграційний приріст; зайнятість; безробіття; бізнес-стійкість підприємств

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Socio-economic security of the region in war conditions: Damage assessment, modelling of recovery paths and their regulatory support

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Abstract. The realities of today and the active phase of the war determine the search for new ways to form the economic potential of Ukraine, considering direct and indirect losses that have arisen as a result of military operations, which determines the relevance of the research topic. Accordingly, the purpose of the study was to analyse the factors of destabilising influence on the economic security of regions and develop ways to restore their socio-economic potential. Special attention in the course of the study was paid to the assessment of losses as a result of military operations and other processes that accompany the functioning of regions in conditions of extreme aggravation of threats. A model for assessing the negative consequences of the impact of temporary emigration, mobilisation, and internal displacement of the population on the socio-economic security of the region is developed. Within the framework of the model, the state of losses was determined depending on the ratio of the main components of temporary emigration, which include: departure from Ukraine and return, the level of job vacancies, and the demand for jobs of medical workers. The main conditions of losses from mobilisation and temporary migration of the population are also determined. It was proved that the implementation of regional rehabilitation programmes will reduce the amount of losses and ensure the growth of the socio-economic potential of the regions in the medium term, including by improving the regulatory support for financing such processes. This will allow getting a substantial social, economic, security, and legal effect. At the same time, an absolutely new field was being formed for further research on the implementation of security mechanisms at the macro, meso, and micro levels in the conditions of war and post-war reconstruction of territories. The results of the study can be used by state institutions and investment funds interested in reconstructing the socio-economic potential of Ukraine and creating safe, favourable conditions for its implementation

Keywords: socio-economic development; economic security; damage assessment model; rehabilitation; regional development

Suggested Citation

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Introduction

Socio-economic security of the region covers various aspects, such as economic development, employment levels, access to education and health, social programmes, life safety, and much more. Military operations in Ukraine substantially affect the socio-economic security of the regions and cause a number of negative factors that increase stagnation and crisis processes. These factors should include temporary emigration (mainly of the working-age female population; however, the share of emigrants from the western regions is substantially less than the share of emigrants from the central and eastern regions of Ukraine), which affects the economy of the country and individual regions through the loss of labour, and creates social and economic difficulties for family members who remain in the country. In addition, while the population's involvement in military operations is a critically necessary phenomenon, it decreases labour efficiency at the main place of work, and the attraction of financial and material resources for military needs affects the region's economic stability. The growing number of internally displaced persons poses humanitarian, social, and economic challenges for the country and regions. There are substantial imbalances in the development of individual communities, and there is a shortage of funding for measures aimed at ensuring their socio-economic development even in the medium term.

Research on the functioning of the socio-economic security system emphasises that the effectiveness of its functioning depends on the examination of the environment and an adequate response to each of the possible impacts and adaptive capabilities of the system. Ye. Ziabina *et al.* (2020) noted that it is necessary to consider the specifics of the development of socio-economic and motivational processes. The authors emphasise the importance of motivation for making managerial decisions in ensuring economic security at different levels and examine various indicators for assessing the state of socio-economic processes at the macro and meso levels. T.G. Vasyltsiv *et al.* (2023) focused on such modern trends in the development of society as artificial intelligence and socio-political transformations since they allow gaining substantial competitive advantages and, on the other hand, generate new threats to socio-economic systems that require the formation of new approaches to their levelling and management to respond promptly in a clearly defined time frame. Migration processes are considered separately. As indicated by O.P. Mulska *et al.* (2020) and E. Çıtak (2020), such processes negatively affect the security of the state and regions due to a decrease in the number of working people and the movement of the most active part of them abroad, which is an extremely negative trend in recent times. The movement of intellectual capital is investigated by M.I. Kopytko *et al.* (2023), emphasising the importance of intellectual potential for the development of the state and focusing on the deterioration of the security of socio-economic systems due to the decline in the country's intellectual capital, considering the negative trends of war. It is proposed to develop new approaches to the preservation of intellectual capital and implement appropriate strategic decisions at various levels of development of socio-economic systems.

A substantial part of researchers focus their attention on the specific features of the functioning of organisations in conditions of socio-economic destabilisation and rapid changes, for example, J.R. Anderson (2019) and I.R. Mihus *et al.* (2020). The authors emphasise the importance of considering the influence of a set of organisations on the behaviour of state agents and the formation of an environment that contributes or does not contribute to business development. Economic security depends on this not only at the micro level but also at the level of the socio-economic system in general (Klemenc, 2021).

The purpose of this study was to analyse the factors of destabilising influence on the economic security of regions and develop ways to restore their socio-economic potential. The main objective of the study is to substantiate the feasibility of implementing rehabilitation programmes for the population based on the use of a model for assessing the region's socio-economic development losses in the medium and long term.

Materials and methods

The methodology for forming a system of economic security at the macro, meso, and micro levels provides for the prevention or minimisation of negative environmental influences, but there is an opinion that it is impossible to level absolutely all negative factors of influence, especially those related to military operations. Such factors are described in detail in the state policy strategy on internal displacement for the period up to 2025, Decree of the Cabinet of the Ministers of Ukraine No. 312-p (2023), namely: "large-scale aggression against Ukraine and the risk of its further escalation, destruction of the infrastructure of settlements, both close to the war zone and those in which military operations are already underway, and located on the rest of the country, create risks of a substantial increase in internal displacement". This situation leads to the need to develop a number of regulatory provisions that would not only provide for a certain level of financial support for communities but also regulate the issues of rehabilitation of the population, since according to the above-mentioned strategy, "...the insufficient level of available psychological assistance and rehabilitation for internally displaced persons, especially children affected by armed aggression against Ukraine, complicates the processes of adaptation in the new environment... In addition, it is equally important to create conditions for organising psychosocial support in the new workplace for internally displaced persons". The procedure for using the funds provided in the state budget for the implementation of measures to provide social and psychological assistance by the Centers for Social and Psychological Rehabilitation of the Population Decree of the Cabinet of the Ministers of Ukraine No. 149 (2015) was approved to implement the high-quality performance of social security functions at the macro level. Such a regulatory document regulates the distribution of budget funds, but as practice shows, it requires systematic improvement of the mechanism of its application, especially considering the situation in certain regions. Therewith, the inability to eliminate all the negative consequences for the socio-economic security of the region does not mean that they should not be eliminated. This process can be generalised by transforming these consequences into input factors (variables) of medium- and long-term economic planning functions. The factors described above are indicated by TE (temporary emigration), M (mobilisation), ID (internal displacement). The relative decline in employment (rising unemployment) is a function of *cnz**) from these factors:

$$cnz^{*}_{1000} = CnZ(TE, M, ID). \quad (1)$$

Function (1) returns dimensionless quantities (denoted as cnz^{*}_{1000}) – either the shares or percentages by which employment decreases or unemployment increases for 1000 people of the working population over a certain period of time (quarter or year). The relative decline in production (*RDP*), which is the result of a growing shortage of labour resources, is a certain function *cnb*(*) from these factors:

$$cnb^{*} = CnB(TE, M, ID), \quad (2)$$

where which returns the value RDP^{*}, which shows by what share (percentage) production will decline over a certain period of time (from a month to a quarter). Due to the evident limitations of statistical observation, the reflection of a decline in employment (1) is more inert than the reflection of a decline in production. Finally, the function:

$$cncp^{*} = CDD(TE, M, ID), \quad (3)$$

where returns a value CDD^{*}, which shows by what share (percentage) consumer demand will decline (during the same period. Functions (1) – (3) can formally acquire negative values, but at non-zero levels of *TE*, *M*, and , the values of these functions are at least zero. In real conditions, even insubstantial levels of temporary emigration, mobilisation, and migration provoke a decline in production and destabilisation of consumer demand. Resources to compensate for the negative impact of the consequences of factors *TE*, *M*, and (after their manifestation for several months) are estimated using a certain transformation ψ (•) with respect to the fractions or percentages of the decline (1) – (3) and the factors that cause these declines:

$$\psi^{*} = \psi(TE, M, ID; cnz^{*}_{1000}, cnb^{*}, cncp^{*}). \quad (4)$$

Strictly speaking, value (4) is something that, one way or another, the state or regional administration should allocate in the near future so that the negative impact does not continue to destabilise the regional economy. On the other hand, directing resources immediately to eliminate these consequences in advance can be attempted, without waiting for them to manifest. After, there is an assessment of losses (*L*) from the negative impact of the consequences of factors *TE*, *M*, and as dimensionless values

$$Z(TE), Z(M), \text{ i } Z(ID), \quad (5)$$

where within a standardised scale (for example, from 0 to 1). Then, the sum of the values (5) is converted to the resource (financial) equivalent. This equivalent (*Inv*) is actually an investment in the post-war future. If:

$$Inv = Z(TE), Z(M), Z(ID) < \psi, \quad (6)$$

where this will prove that such investment (conducted within the framework of a government or regional programme, respectively) is quite appropriate both for eliminating negative consequences for the socio-economic security of the region and for partially preventing problems of post-war adaptation. It will also help accelerate the restoration of the region's labour potential. Moreover, the future post-war reality of Ukraine will require the concentration of colossal labour resources on the production and construction sector for the dynamic restoration of municipal and other infrastructure facilities in the country (possibly according to improved quality standards to strengthen protection during enemy terrorist attacks).

Results

It is necessary to justify the actual feasibility of a rehabilitation programme in the medium term, in addition to its clear aspirations and virtues. It is necessary to estimate (predict) losses (5) and prove inequality (6) to do this. The loss (5) forecast can only be relative on a standardised scale from 0 to 1. Losses are divided into five groups – minor, moderate, substantial, very substantial, and critical. These groups are considered to correspond to five classes or states, one of which is caused by the negative impact of the effects of factors *TE*, *M*, and *ID*. Given the uncertainty of the data, decision trees will be used as a model for determining the level of losses, which, even in conditions of strong uncertainty, can relatively reliably indicate the most relevant class (Kamiński *et al.,* 2017). The factor of temporary emigration causes losses due to the action of its three components: the difference in the number of citizens who left Ukraine and the number of citizens who returned to Ukraine (*KGVP* and x_1 for the tree); the relative level of job vacancies (mainly for women; are denoted by *LJV* and x_2 for the tree); relative demand (jobs) for medical workers (*JMW* and x_3 for the tree).

It is emphasised that *KGVP* is calculated directly by the state border service of Ukraine, whereas *LJV* and *JMW* are more akin to the consequences of emigration (and their exact calculation is almost impossible – they are only evaluated). It is equally important to consider that these three components have a certain mutual influence, that is, there is some correlation, although not equivalent, between each pair of the three *KGVP*, *LJV*, *JMW*. Next, a table of different states (levels) of losses is compiled depending on the ratio of the three components of temporary emigration (Table 1).

Table 1. States of losses depending on the ratio of the three components of temporary emigration

State of losses	Departures from Ukraine and returns (*KGVP*)	Level of job vacancies (*LJV*)	Demand (jobs) for medical workers (*JMW*)
1	0	0	0
1	0.4	0.15	0
1	0.8	0	0
2	0.25	0	0
2	0.25	0	0.25
2	0	0	0.25

Table 1, Continued

State of losses	Departures from Ukraine and returns (*KGVP*)	Level of job vacancies (*LJV*)	Demand (jobs) for medical workers (*JMW*)
3	0	0	0.5
3	0.5	0	0.5
3	0.5	0.25	0.5
4	0	0	0.75
4	0.5	0.25	0.75
4	0.75	0.6	0.5
5	0.25	0.5	1
5	0.5	0.5	1
5	0	1	1

Source: compiled by the author

Surely, it is impossible to go through all possible (even basic) options, so only specific cases are indicated as examples, using judgments about the shares of decline (1) – (3). A total of 15 examples were compiled – three examples for each state of damage. With the help of experts, some values were corrected. To build a decision tree that is later accessed simply as *Z*(*TE*), it is necessary to increase the amount of data, otherwise, it is impossible to build a reliable tree that can pass validation. This is done artificially using data augmentation by V. Romanuke (2020). To each three values from Table 1, the normal noise of V. Romanuke (2019) is added as a three-component vector:

$$[KGVP\ PPB\ PMP] + 0{,}015 \cdot [\xi_1\ \xi_2\ \xi_3], \qquad (7)$$

where ξ_1 ξ_2 ξ_3 – the values of three mutually independent random variables distributed normally with zero mean and unit variance (i.e., with a single root-mean-square deviation). Operation (7) is repeated 10 times. Thus, 150 data samples were obtained. Of these, a third (i.e. 50 samples) are used for testing the decision tree *Z*(*TE*). The remaining 100 samples are used to directly determine the coefficients (with which variables x_1, x_2, x_3) in the nodes of branches should be com. The decision tree *Z*(*TE*) is shown in Figure 1.

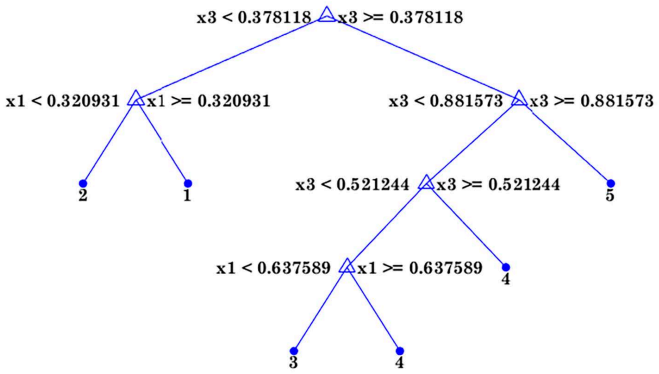

Figure 1. Decision tree *Z*(*TE*), based on the data in Table 1 and data augmentation (7), where there are no nodes with job vacancy levels x_2

Source: compiled by the author

Thus, the root node is *JMW*. Minor and moderate losses from temporary emigration are most quickly determined by the *KGVP* verification. Critical losses are also detected relatively quickly, and high demand for medical workers leads to them. Substantial and very substantial losses are determined additionally by the level of departures from Ukraine and returns. There is no level of job vacancies in the nodes of this tree (x_2). Thus, changes in the level of job vacancies (whether for women or without regard to gender) do not determine the damage caused by temporary migration. In other words, an increase in the number of job vacancies does not necessarily mean losses in the near future. This is explained by the fact that the registration of vacancies (new arrivals), despite the effects of digitalisation, is a somewhat inert process and does not reflect the real state of the labour market. In addition, the potential shortage of labour resources is partially covered by internally displaced persons.

Testing the decision tree *Z*(*TE*) showed that it has an accuracy of 94% (for three of the 50 variants of the ratio of the three components of temporary emigration, the state of losses was determined incorrectly – all three cases of minor losses were "confused" with moderate losses, that is, "reinsured"). This is an acceptable accuracy that confirms the validity of decisions based on this tree. In addition, the decision on minor and moderate losses is made on the basis of *KGVP*, and substantial and very substantial damage is also located on neighbouring *Z*(*TE*) tree branches, decisions on which are also made on the basis of *KGVP*. Very substantial losses, in turn, are located next to critical losses. All these features further confirm the validity of the decision tree *Z*(*TE*).

The mobilisation factor causes losses due to the action of the following three components: the actual level of mobilised citizens (as the share of mobilised per 1000 citizens; is

indicated by *PMG* and x_1 for the tree); the share of mobilised citizens who are in the ranks of territorial defence (indicated by *MGTO* and x_2 for the tree); the relative level of job vacancies (mainly for men; denoted by *PPBH* and x_3 for the tree). Of these components, only *PPBH*, which is a consequence of mobilisation, is evaluated more roughly, and the data on *PMG* and *MGTO* are calculated directly by the military. Thus, *PMG* and *MGTO* are more clearly correlated. However, they affect *PPBH*. A table of different states (levels) of losses is compiled depending on the ratio of the three components of the mobilisation factor (Table 2) and increases the amount of data by augmenting the data, similar to operation (7) to build a decision tree Z(*TE*):

$$[PMG\ MGTO\ PPBH] + 0{,}01 \cdot [\xi_1\ \xi_2\ \xi_3], \qquad (8)$$

where operation (8) is repeated 10 times. The multiplier before the triple pseudo-random values in the case of the mobilisation factor was reduced because registration and statistics of *PMG* and *MGTO* are much more reliable than *PPB* and *JMW* for temporary migration (*KGVP* is tracked clearly). Of the 150 data samples, a t hird were again used to test the decision tree.

Table 2. States of damage depending on the ratio of the three components of the mobilisation factor

State of losses	Total number of people mobilised (*PMG*)	Share of mobilised citizens who are in the ranks of territorial defence (*MGTO*)	The level of vacancies (mainly for men) (*PPBH*)
1	0	0	0
1	0.15	0.05	0.1
1	0.05	0.5	0.05
2	0.1	0.05	0.5
2	0.2	0.1	0.1
2	0.25	0.5	0.2
3	0.4	0.2	0.5
3	0.45	0.35	0.35
3	0.35	0.75	0.45
4	0.35	0.15	0.75
4	0.2	0.5	0.7
4	0.3	0.6	0.4
5	0.25	0.5	0.9
5	0.55	0.5	0.9
5	0.8	0.55	0.95

Source: compiled by the author

The decision tree *Z*(*M*) that was constructed is shown in Figure 2. Like the decision tree for temporary emigration losses, the decision tree *Z*(*M*) has four levels. The root node here is the level of job vacancies, which immediately determines critical losses. Minor and moderate losses are most quickly determined by sequential verification of *PPBH* and *PMG*. Another branch that determines moderate losses is also tested twice by *PPBY* and once by *PMG* and *MGTO*. Very substantial losses are determined by the two longest branches, which also consider all three components of the mobilisation factor. Testing the decision tree *Z*(*M*) showed that it has an accuracy of 90%. Here, five out of 50 variants of the ratio of the three components of the mobilisation factor were problematic. In particular, five times moderate losses were "confused" with very substantial losses by this tree. This is due to the fact that these two states are located on adjacent branches of the tree, and the decision on them is made based on *MGTO*. However, 90% accuracy is acceptable, which confirms the validity of solutions based on this tree. In addition, other damage states that are logically adjacent (minor and moderate, substantial, and very substantial) are also adjacent on the branches of this tree.

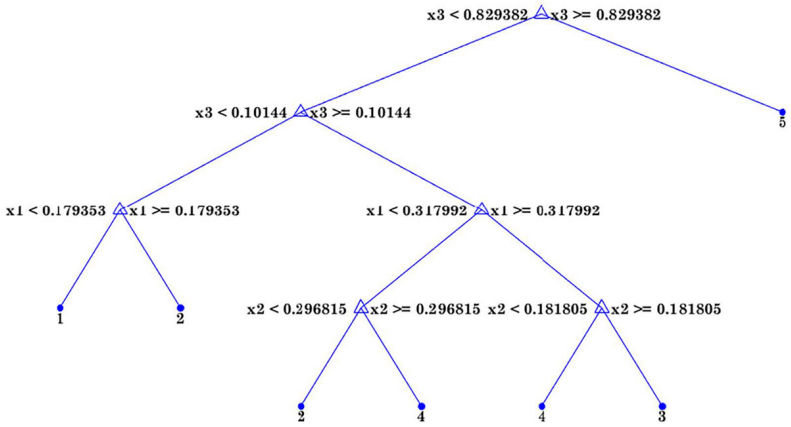

Figure 2. Full-node decision tree *Z*(*M*), based on the data in Table 2 and data augmentation (8), where all three components of the mobilisation factor are used (x_1, x_2, x_3)

Source: compiled by the author

The factor of temporary migration (internally displaced persons) causes losses due to the action of the following four components: changes in the number of people living in a given period of time on the territory of the community, region (indicated by *OP* and x_1 for the tree); the number of applications of internally displaced citizens for assistance to local self-government bodies, including registration at the place of temporary residence (indicated via *KZ* and x_2 for the tree); the level of real estate prices (indicated by *CN* and x_3 for the tree); the total volume of job vacancies offered on the labour exchange (indicated by *OPPB* and x_4 for the tree);

Component *OP* and indirectly the component *KZ* are closely related to temporary migration, *CN*, and *OPPB* are already its consequences. A mutual correlation between each pair of four *OP*, *KZ*, *CN*, and *OPPB* is also present. The strongest correlation is observed between *OP* and *KZ* and between *KZ* and *CN* (although the connection in this pair after the summer of 2022 substantially weakened – real estate prices stabilised). The weakest correlation, as recent observations show, is characteristic of *CN* and *OPPB*.

A table of different states (levels) of losses is compiled depending on the ratio of the four components of the temporary migration factor (Table 3), where the minimum level for each component is 0.01 to build a decision tree *Z*(*ID*). Since another component was added in this case, the number of base relationships must be larger; otherwise, the decision tree will not pass validation. That is why Table 3 contains four different ratios for each damage state. In addition, an operation is used to augment data.

$$[OP\ KZ\ OPPB] + 0{,}35 \cdot [\xi_1\ \xi_2\ \xi_3], \qquad (9)$$

where which is repeated 20 times (ξ_4 – additional, fourth, value of an independent random variable distributed normally with zero mean and single root-mean-square deviation). As a result, 400 data samples were obtained, of which 100 were used for testing the Z(*ID*) decision tree.

Table 3. Damage states depending on the ratio of the four components of the temporary migration factor

State of losses	Change in the number of people (*OP*)	Number of requests from internally displaced persons for assistance (*KZ*)	Real estate price level (*CN*)	Total volume of job vacancies offered on the labour exchange (*OPPB*)
1	0.01	0.05	0.05	0.01
1	0.2	0.1	0.1	0.02
1	0.01	0.01	0.15	0.03
1	0.1	0.15	0.05	0.02
2	0.25	0.01	0.01	0.01
2	0.01	0.25	0.01	0.01
2	0.01	0.01	0.25	0.01
2	0.02	0.05	0.05	0.3
3	0.45	0.05	0.05	0.05
3	0.05	0.45	0.05	0.1
3	0.1	0.25	0.5	0.35
3	0.05	0.45	0.45	0.65
4	0.7	0.5	0.5	0.1
4	0.35	0.65	0.25	0.1
4	0.35	0.4	0.75	0.55
4	0.6	0.7	0.8	0.85
5	0.75	0.75	0.5	0.6
5	0.8	0.5	0.5	0.9
5	0.9	0.65	0.85	0.95
5	0.85	0.95	0.55	0.9

Source: compiled by the author

The decision tree *Z*(*ID*) that was built is shown in Figure 3. This tree is more complex than *Z*(*TE*) and *Z*(*M*). It has six levels. Each of the four components of the temporary migration factor is involved in deciding on the state of damage. The longest branch contains small to moderate losses, which ultimately differ in property prices. Stronger damage is easier to detect. The distinction between very substantial and critical losses is made in one of two ways: by the number of requests from internally displaced persons for help (*KZ*) or by the total volume of job vacancies offered on the labour exchange (*OPPB*).

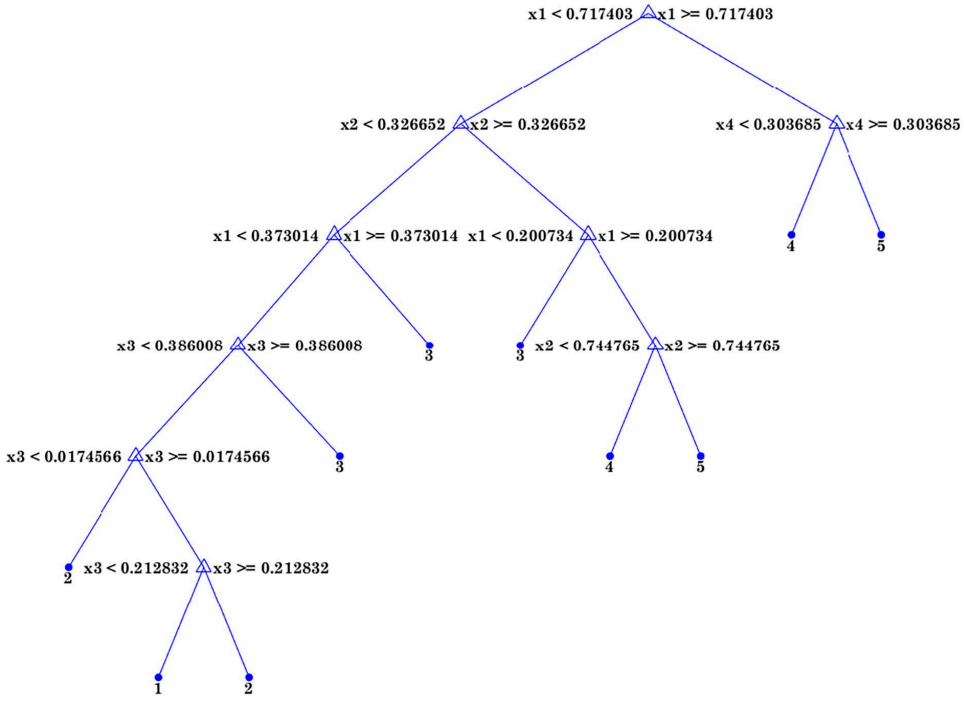

Figure 3. Full-node decision tree *Z*(*VR*), based on data 3 and data augmentation (9), where all four components of the time migration factor are used (x_1, x_2, x_3, x_4)

Source: compiled by the author

The accuracy of the decision tree *Z*(*ID*), as shown by testing, is acceptable and is at least 85%. Minor and moderate losses are problematic here, which are the most difficult to predict. Moreover, unlike a *Z*(*TE*) tree, this tree "confuses" moderate losses with minor ones and not vice versa. In general, the damage caused by temporary migration is the most unstable and has strong uncertainty. This is why the multiplier before the four pseudo-random values in (9) was increased to 0.035 to simulate the corresponding uncertainty. However, the validity level of tree-based solutions *Z*(*TE*) is at least 85%, which is quite an acceptable result in conditions of strong instability, uncertainty, and complex predictability.

Since the processes of forced temporary emigration, mobilisation, and internal migration are interrelated, the socio-economic losses from these processes are also closely related. Therefore, a situation in which, for example, losses of *Z(TE)* are insubstantial and the losses of *Z*(*ID*) are very substantial or critical is almost impossible. This means that the list of all variants of three (5), which theoretically could be $5^3 = 125$, is actually bounded. Such a list is evaluated in more detail to fill it realistically, and therefore, it is necessary to identify whether a situation is possible when losses for one factor are moderate and for another – critical. In such a situation, the gap between the levels of losses is two steps (very substantial losses are "missed"). The answer here is yes because, for example, the rate of temporary emigration has substantially decreased over the past half of the year, and, consequently, losses *Z(TE)* do not increase, while the level of *Z*(*ID*) during the entire period since the beginning of a full-scale war is palpable. Therewith, the gap between lower-level losses (from minor to moderate) cannot be greater than one step. Therefore, when compiling a list of all variants of the three (5), the following two considerations are used. If the losses on one of the three factors are insubstantial or moderate, then the losses on the other factors cannot be two steps stronger. Otherwise, the gap between the damage levels can be no more than two steps. As a result, a much shorter list of 41 situations was obtained (Table 4). The remaining $125 - 41 = 84$ situations outside this list are almost impossible, given the development of socio-economic processes in Ukraine, which protects its citizens and territory from terrorist attacks.

Table 4. List of all realistic combinations of damage states

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41
1	1	1	1	2	2	2	2	2	2	2	3	3	3	3	3	3	3	3	3	3	3	3	4	4	4	4	4	4	4	4	4	5	5	5	5	5	5	5	5	5
1	1	2	2	1	1	2	2	2	3	3	2	2	3	3	3	3	4	4	4	5	5	5	3	3	3	4	4	4	5	5	5	3	3	3	4	4	4	5	5	5
1	2	1	2	1	2	1	2	3	2	3	2	3	2	3	4	5	3	4	5	3	4	5	3	4	5	3	4	5	3	4	5	3	4	5	3	4	5	3	4	5

Source: compiled by the author

It is necessary to estimate the amount of losses (5) as the equivalent of the minimum investment for the implementation of a rehabilitation programme. However, the transition to a standardised scale can be made after summation. In other words, standardisation of the *Inv* value. Thus, instead of *Inv*, on the left side of inequality (6), the following is obtained:

$$Inv = \frac{Z(TE)+Z(M)+Z(ID)}{\max\{Z(TE)+Z(M)+Z(ID)\}}. \quad (10)$$

The dependence of the standardised value (10) on the number of combinations of loss states in Table 1 is shown in Figure 4. As can be seen, with the growth of this number, the financial needs of the rehabilitation programme grow non-linearly and unevenly. This is caused by an uneven increase in losses for each factor *TE*, *M*, *ID* separately. As soon as critical losses appear in conjunction with other losses (in this case, critical losses appear for *ID* in the 17th list), the line of dependence of the standardised value *Inv* gets more fluctuations and becomes more chaotic.

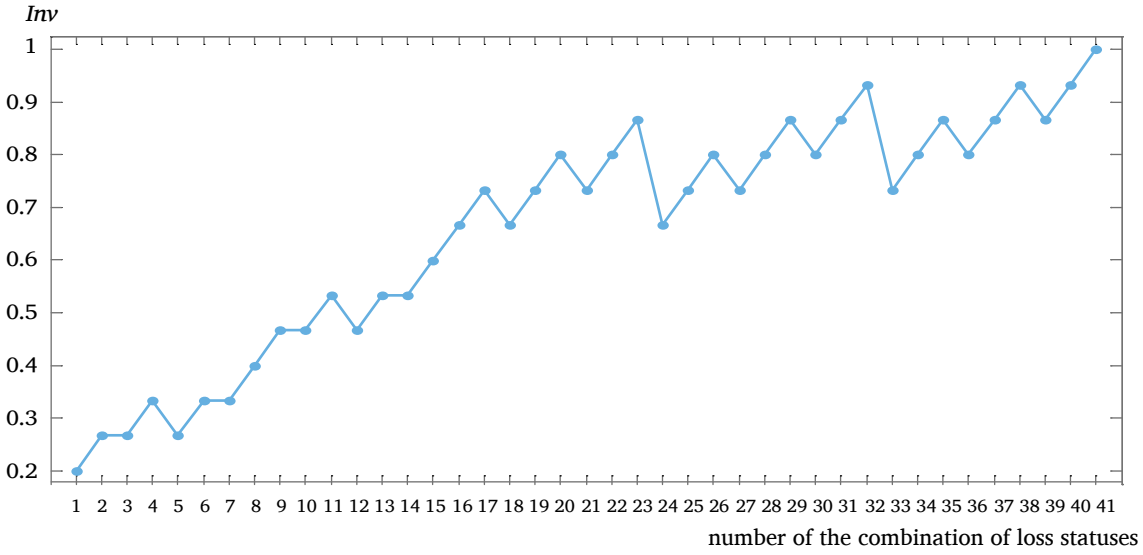

Figure 4. Polyline of the standardised value dependency *Inv* at (10) from the number of combinations of loss states in Table 4

Source: compiled by the author

Now, it is necessary to build a model for assessing damage in the medium and long term when there is no rehabilitation programme. One option is to consider the gradual increase in losses according to the exponential law, which uses the ratio of the average current losses to the geometric mean of all losses due to the action of each factor *TE*, *M*, and *ID*:

$$\psi_1^* = \left(\frac{Z(TE)+Z(M)+Z(ID)}{3\cdot\sqrt[3]{Z(TE)\cdot Z(M)\cdot Z(ID)}}\right)\times$$
$$\times \exp(-\beta\cdot\max\{Z(M)-Z(TE),\ Z(ID)-Z(M)\}), \quad (11)$$

where $\beta>0$ is a certain coefficient that considers a decrease in the rate of increase in total loss due to gaps in losses for individual factors, which allows balancing the cost of compensation for total loss. On the other hand, another additional option is the inverse exponential relationship, where the exponent sign contains values that are inverse to losses for individual factors weighted with the corresponding coefficients:

$$\psi_2^* = \frac{1}{\exp\left(\frac{\mu_1}{Z(TE)}+\frac{\mu_2}{Z(M)}+\frac{1-(\mu_1+\mu_2)}{Z(ID)}\right)}, \quad (12)$$

where $\mu_1>0$. $\mu_2>0$ and $1-(\mu_1+\mu_2)>0$. In the most favourable case, when the losses for individual factors are minimal, that is: $Z(TE)=Z(M)=Z(ID)=1$, the value of (12) is the minimum:

$$\psi_2^* = \frac{1}{exp(\mu_1+\mu_2+1(\mu_1+\mu_2))} = \frac{1}{e} = 0{,}368.$$

In the worst-case scenario, losses for individual factors are maximal, i.e.: $Z(TE)=Z(M)=Z(ID)=5$, and then the value of (12) is the maximum:

$$\psi_2^* = \frac{1}{exp\left(\frac{\mu_1}{5}+\frac{\mu_2}{5}+\frac{1(\mu_1+\mu_2)}{5}\right)} = \frac{1}{e^{0,2}} = 0{,}8187.$$

Thus, dependence (9) clarifies exponential growth (11). In conditions of uncertainty, this clarification is fundamentally necessary not to lose estimates of additional losses, although they are less than (11). In addition, under conditions of uncertainty, both models are considered, so:

$$\psi = \lambda_1\psi_1^* + \lambda_2\psi_2^*, \quad (13)$$

where for undefined coefficients $1>\lambda_1>0$ and $1>\lambda_2>0$. Explicitly, function (13) has the form:

$$\psi = \lambda_1\cdot\exp\left(\frac{Z(TE)+Z(M)+Z(ID)}{3\cdot\sqrt[3]{Z(TE)\cdot Z(M)\cdot Z(ID)}}\right)\cdot$$
$$\times\exp(-\beta\cdot\max\{Z(M)-Z(TE),\ Z(ID)-Z(M)\}+$$
$$+\frac{\lambda_2}{\exp\left(\frac{\mu_1}{Z(TE)}+\frac{\mu_2}{Z(M)}+\frac{1-(\mu_1+\mu_2)}{Z(ID)}\right)}, \quad (14)$$

where five coefficients are unknown: λ_1, λ_2, β, μ_1, μ_2. It is necessary to first find the minimum of function (14) for the corresponding values of these five coefficients and then standardise the resulting minimum to compare function (14) with the equivalent of the minimum investment (10) for implementing a rehabilitation programme. This time, constraints on variables λ_1, λ_2, β, μ_1, μ_2, which determine the minimum of function (14) for any list from Table 1, are as follows:

$$0.1\le\lambda1\le0.9,\ 0.1\le\lambda2\le0.9,$$
$$0.05\le\beta\le0.95,\ 0.1\le\mu1\le0.9,\ 0.1\le\mu2\le0.9.$$

The result of minimising function (14) under the specified constraints is: $\lambda_1^* = 0.569$, $\lambda_2^* = 0.428$, $\beta^* = 0.069$, $\mu_1^* = 0.222$, $\mu_2^* = 0.222$. Hence, an explicit formula is obtained for calculating the minimum value of the function (14), which corresponds to the most favourable case of the development of the influence of negative factors on the socio-economic security of the region:

$$\psi = 0{,}569 \cdot \exp\left(\frac{Z(TE)+Z(M)+Z(ID)}{3\cdot\sqrt[3]{Z(TE)\cdot Z(M)\cdot Z(ID)}}\right) \times$$
$$\times \exp(-0{,}069 \cdot \max\{Z(M)-Z(TE),\ Z(ID)-Z(M)\}) +$$
$$+ \frac{0{,}428}{\exp\left(\frac{111}{500\cdot Z(TE)}+\frac{111}{500\cdot Z(M)}+\frac{139}{250\cdot Z(ID)}\right)}. \qquad (15)$$

The standardised resulting minimum (15) will have the form:

$$\psi^* = \frac{\psi}{\max\limits_{36(\text{TE}),\ 36(\text{M}),\ 36(\text{ВП})}\{\psi\}}. \qquad (16)$$

Figure 5 shows a comparative graph of the dependence (16) on the background of (10), which also shows the components (11) and (12) in the minimised function (15). Consequently, the polyline of losses (in the medium and long term without starting a rehabilitation programme) is generally higher than the polyline of the financial needs of the rehabilitation programme. The only exceptions are connection numbers 23 (substantial losses due to temporary emigration and critical losses due to mobilisation and temporary migration), 32 (substantial losses due to emigration, the rest are critical), 35 (critical losses due to emigration and migration, *Z*(*M*) – substantial), 38 (where *Z*(*M*) become very substantial), 41 (all types of losses – critical). In general, the polyline (16) corresponds to the most favourable case, so in reality, it will be even higher than the polyline financial needs of the rehabilitation programme.

Therefore, even under the most favourable circumstances, losses increase and unnecessary expenses in the future can be prevented in advance by investing in rehabilitation. It will cost less in the end. In addition, additional revenues are expected from the provision of paid services in rehabilitation centres. In general, this will contribute to strengthening the socio-economic security of any region with a geographical position similar to that of the Khmelnytskyi region relative to the front line. However, it is not difficult to realise that for the frontline regions (if possible – regular, planned), rehabilitation measures are also needed – it is quite likely that in an even larger volume.

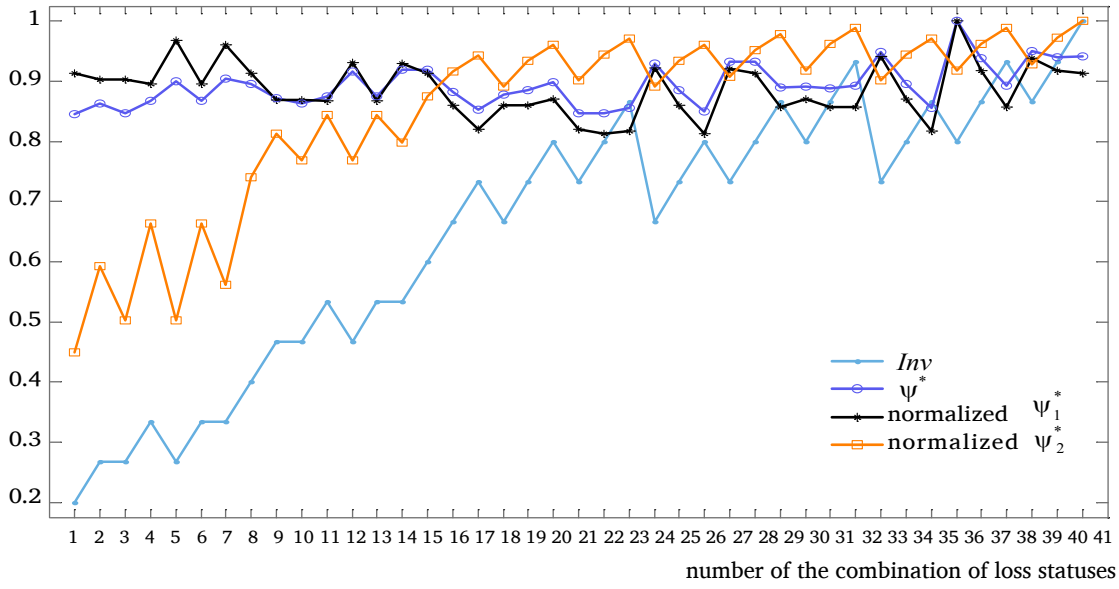

Figure 5. Polyline of the standardised value dependency *Inv* at (10) from the number of combinations of loss states in Table 4

Source: compiled by the author

The socio-legal aspect of the problem under study is an important component of the successful implementation of the developed provisions. Such programmes require modern regulatory support that would regulate the procedures for their practical application and proper funding. One of the main regulatory documents regulating the procedures for financing these activities is the "procedure for using funds provided in the state budget for the implementation of measures to provide social and psychological assistance by centres for social and psychological rehabilitation of the population" of the Decree of the Cabinet of the Ministers of Ukraine No. 149 (2015). Thus, the detail of most provisions is regulated by a substantial number of other regulatory documents that are not fully agreed upon. Accordingly, due to such inconsistency, contradictions may arise that will not allow quickly solving the problems of financing the rehabilitation of the population and military personnel. This also creates an additional financial burden on territorial communities, as noted in the "Strategy of state policy on internal displacement for the period up to 2025 and approval of the operational action plan for its implementation in 2023-2025" of the Decree of the Cabinet of the Ministers of Ukraine No. 312-p (2023). Only the development of new approaches to the processes of rehabilitation of the population and their proper regulatory support will allow getting a tangible socio-economic effect at the macro, meso, and micro levels.

Discussion

Scientific papers note that changes that occur in the external environment cause the emergence of destabilising factors that affect the company's activities, and constantly emerging various dangers, threats, and risks form an objective need for effective protective mechanisms that are formalised in security systems of various levels and their content at the institutional level. As noted by Ye. Rudnichenko *et al.* (2019), "The quality of the business environment in most countries depends substantially on the institutional impact of state structures and the protection of the interests of business entities". This position is quite justified since support for socio-economic development at the regional level is influenced by norms and institutions that ensure the functioning of security mechanisms at various levels.

In addition, as noted in the publication of Ye. Rudnichenko *et al.* (2020): "Modern developments on the economic security of enterprises practically do not consider possible scenarios of the behaviour of business entities and their populations in interaction with regulatory entities, although this process substantially affects the state of their economic security and requires theoretical and practical tools to optimise such interaction. Moreover, optimisation should provide harmonisation of relations within the system since natural processes are characterised by a desire for a balanced system in general and reaching harmony, and when this state is achieved, a feeling of safety, comfort and the ability to reproduce the population arises". In general, business entities' behaviour substantially modifies depending on the specifics of their external (institutional) and internal (adaptive) environments, and their functioning at the level of a particular region occurs in strict correlation with the effectiveness of management at different levels.

Most researchers, such as T. Salihaj and S. Pryimenko (2017) and P. Pylypyshyn *et al.* (2022), believe that the critical impact on security systems of different levels occurs precisely in the external environment, but it is extremely difficult for individual entities to influence such an environment through individual management decisions, which is also confirmed by N. Chen and M. Hu (2023). The study can partially agree with this position, but if individual entities are united into certain communities, such as industry associations, their influence on the external environment can be quite substantial, especially given the possibility of creating lobbying groups at the legislative level.

According to the postulates of institutional theory, intra-organisational changes may not always provide sustainable competitive advantages for individual actors, B. Giner and M. Luque-Vílchez (2022), because, even with the assistance of international institutions and the transformation of various forms of reporting and financial and credit relations, positive decisions on financing regional socio-economic development programmes are extremely difficult to achieve. This is due to a lack of resources, and not only financial ones, which is extremely important for ensuring economic security. M. Song *et al.* (2023) state, "Economic security means the unrealistic supply of natural resource assets and the highly volatile and stable prices here have led to unstable economic development, shocks to the industrial structure, and underemployment. The six natural resource assets of energy, minerals, oceans, water resources, land, and forests belong to the important natural resource assets that are an important basis for supporting the development of industrialisation, urbanisation, informatisation, and rapid modernisation". The remark, in general, corresponds to the idea of the above study since the rational use of resources at the regional level allows ensuring the region's economic security and attractiveness for people who are displaced and need rehabilitation. This will, in the future, have a positive impact on the provision of the working-age population with the needs of the economy. The study on the regional context of ensuring economic security is also presented in the works of M. Legrenzi and F. Lawson (2018), which focus on individual organisations that are able to influence the security situation at different levels but are not able to radically change the functioning environment of specific business entities in the short term, which can be agreed upon, but in the long term, such transformations are quite possible.

In many papers, only individual researchers F. Ghilès (2022) and Y. Romanovska *et al.* (2022) raise the issue of socio-economic security in war conditions, while it is necessary to state a limited number of studies with the presentation of specific tools for assessing losses at the regional level and the development of proposals for restoring the socio-economic potential of the region, and in the presented study, the authors propose specific tools for solving certain problems of regional development of complex socio-economic systems, focusing on the regulatory support of such processes and the need for their improvement.

Most of these studies do not consider the current conditions of functioning of socio-economic systems of Ukraine in war conditions. A special place in this process is given to proper regulatory support for the implementation of rehabilitation programmes since they are costly and require the support of the state and local self-government bodies. This will contribute to protecting the population and improving the quality of social security for military operations participants and their families. The preservation of the working-age population and the development of communities remains a priority task for the socio-economic development of territories.

Conclusions

The proposed concept of eliminating negative consequences for the socio-economic security of the region is based on the paradigm of timely response to the current results of the military resistance of Ukraine to minimise the growth of negative socio-economic manifestations in the medium and long term. This response means, first of all, the establishment of special regional institutions, also with the involvement of the private sector, for rehabilitation and assistance at various levels of the negative impact of the liberation war. The prototype of such institutions is the "points of invincibility" throughout Ukraine, which were promptly created to eliminate several negative consequences during forced electricity balancing processes and partially prevent problems related to blackout threats. This example shows that if legislation is improved and initiative groups are created at the level of regions and individual communities, the situation with economic security can be substantially improved.

The effects of a timely, urgent response to threats to the socio-economic security of the region are quite evident. The social effect will consist in partial or full com-

pensation for the shortage of labour resources, restoring the working capacity of the population, encouraging the return of forced emigrants, reducing social tension, overcoming post-traumatic syndrome after military operations, etc. The economic effect will consist in the possibility of determining the specific amount of compensation of the aggressor state not only from direct destruction but also by compensating for the lost benefits of Ukrainian companies in connection with the mobilisation of labour resources, balancing the level of production and demand to prevent galloping inflation; for institutions, healthcare institutions, other participants in the rehabilitation programme-additional revenues, income growth. The security effect will consist in maintaining the competitiveness of the region by restoring the working capacity of the population, and, in general, proper support for micro- and macroeconomic processes will have a positive impact on restoring the combat capability of military formations, including territorial defence units. The legal effect will consist in improving the regulatory framework for regulating the socio-economic development of regions and ensuring the rights to rehabilitation of affected persons.

In addition to the above results, improving the management of the health care system is possible since the unprecedented challenges of war make it necessary for further thorough research not only in the context of population rehabilitation but also in the context of other aspects of socio-economic security of regions and the restoration of their economic potential with further improvement of regulatory support for these processes.

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Conflict of interest

None.

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Соціально-економічна безпека регіону в умовах війни: оцінювання збитків, моделювання шляхів відновлення та їх нормативно-правове забезпечення

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Анотація. Реалії сьогодення та активна фаза війни обумовлюють пошук нових шляхів формування економічного потенціалу України з урахуванням прямих та непрямих збитків, які виникли внаслідок військових дій, що і обумовлює актуальність тематики дослідження. Відповідно, метою дослідження був аналіз факторів дестабілізуючого впливу на економічну безпеку регіонів та розробка шляхів відновлення їх соціально-економічного потенціалу. Особливу увагу у процесі дослідження приділено оцінюванню збитків внаслідок військових дій та інших процесів, які супроводжують функціонування регіонів в умовах граничного загострення загроз. Розроблено модель оцінювання негативних наслідків впливу тимчасової еміграції, мобілізації та внутрішнього переміщення населення на соціально-економічну безпеку регіону. У межах моделі визначено стан збитків залежно від співвідношення основних компонентів тимчасової еміграції, до яких належать: виїзд за межі України та повернення, рівень робочих вакансій, попит на робочі місця медичних працівників. Також визначено основні стани збитків від мобілізації та тимчасової міграції населення. Доведено, що впровадження регіональних програм реабілітації населення дозволить зменшити розмір збитків та забезпечить зростання соціально-економічного потенціалу регіонів у середньостроковій перспективі, у тому числі за рахунок удосконалення нормативно-правового забезпечення фінансування таких процесів. Це дозволить отримати вагомий соціальний, економічний, безпековий та правовий ефект. При цьому формується абсолютне нове поле для подальших досліджень впровадження безпекових механізмів на макро-, мезо-, та мікрорівні в умовах війни та поствоєнного відновлення територій. Результати дослідження можуть бути використані державними установами та інвестиційними фондами, зацікавленими в реконструкції соціально-економічного потенціалу України та створенні безпечних, сприятливих умов її реалізації

Ключові слова: соціально-економічний розвиток; економічна безпека; модель для оцінювання збитків; реабілітація; регіональний розвиток

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The policy of rethinking the criminal process in the national security system: The impact of digitalisation on working with electronic evidence

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Abstract. Choosing the right policy to rethink the criminal process is crucial for adapting and improving national security strategies to effectively counter and prevent new forms of crime that have evolved as a result of the impact of digitalisation. The purpose of the study was to form a modern scientific-methodological approach to choosing the optimal policy for adapting the criminal process to modern digitalisation factors. The key research methods were multi-criteria evaluation of alternatives, comparison of options by preference, and analysis using expert assessments. The innovation of the obtained research results was identified through an improved scientific-methodological approach to improving the effectiveness of the criminal process when working with electronic evidence. This approach differs from the existing ones due to its focus on the formation of alternative options in the choice of adaptation methods, providing an opportunity to choose the one that best meets the requirements of modern digitalisation. This approach focuses on flexibility and adaptability in developing procedures that allow effective interaction with electronic evidence while ensuring the high quality and speed of criminal proceedings. Due to the conducted study, it was established that for Ukraine, especially in the conditions of intensive digitalisation, the most effective is a flexible approach that involves adapting and rethinking

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traditional methods of criminal proceedings, considering the changing conditions and challenges posed by the digital era. The practical importance of the study results is expressed not only in the possibility of using them to develop strategies that will help the country adapt to the challenges of digitalisation but also in their meaningfulness for improving the effectiveness of responding to modern threats, such as cybercrime and other new forms of crime. These results can be used to develop comprehensive approaches to combating cybercrime, including improving legislative norms, improving methods for collecting and analysing electronic evidence, and improving the skills of law enforcement officers

Keywords: criminal procedure proceedings; digitalisation; use of electronic evidence; national security; cybercrime; modelling; comparison of options

Introduction

In a world where technological advances are relentless, traditional methodologies for criminal justice and evidence processing are constantly being questioned and often quickly become obsolete. In this regard, the digitalisation of criminal processes, especially in the skilful handling of electronic evidence, is crucial. The development of forensic science, especially digital forensics, is also crucial for the accurate interpretation and use of electronic evidence, which requires constant research and development in this area. New approaches to choosing a process implementation policy are needed that consider the challenges of digitalisation. Rethinking criminal proceedings in the context of national security and digitalisation is not only timely but also imperative. The dynamism of the external environment, characterised by rapid technological changes and the development of cyber threats, requires a flexible, effective, and legally reliable approach to the management of electronic evidence.

N. Chowdhury *et al.* (2022) examined cybersecurity training in Norwegian critical infrastructure companies. This study is particularly relevant because it sheds light on practical aspects of cybersecurity, an area of expertise needed to understand the challenges associated with processing electronic evidence within the framework of national security. J.A.A. Hammouri (2023) explores modelling the performance of criminal law functions in the context of security development. His investigation is directly related to the subject, as it delves into the practical aspects of adapting criminal law to modern security challenges, including those caused by digitalisation. In turn, B.M.A.-R. Tubishat *et al.* (2023) discuss the formation of an innovative model for the development of e-commerce as part of ensuring the economic security of business. Their understanding of e-commerce and digital platforms provides a unique perspective on the digital environment in which modern criminal processes operate. In turn, S. Nawaz *et al.* (2019) present an in-depth analysis of the online crime record management system. This study is particularly relevant for understanding how digital systems can be used to manage criminal cases, which is a central aspect of research on electronic evidence.

Notably, A. Natalis *et al.* (2023) explore the crucial role of the law in the development of human-environmental relations after COVID-19, with a particular focus on ecofeminism. Although their study is not directly related to digital evidence, it provides a broader context for understanding the changing role of law in society, especially in times of global change and crisis. Thus, the main gaps in the scientific literature related to the chosen subject of the study can be identified: lack of a unified vision of how to adapt the modern policy of implementing criminal proceedings; lack of specific actions to respond to the factors of digitalisation influence; lack of a clear vision of the model of working with electronic evidence in the framework of criminal proceedings; lack of use of adaptive approaches to solving the issue of rethinking criminal proceedings.

A study by A. Falade *et al.* (2019) focuses on a systematic review of crime prediction and data mining techniques. It highlights the importance of technological advances in crime prediction, a key aspect in adapting the criminal process to the demands of the digital age. R. Umar *et al.* (2018) focused on evaluating mobile forensics tools for investigating digital crimes. This assessment is key to understanding the effective inclusion of mobile electronic evidence in criminal investigations, an integral part of the digital transformation of the criminal justice system. A. Stepanyan *et al.* (2022) focused on the legal regime of scientific papers in the digital age, providing insight into the legal problems and frameworks that arise in connection with digitalisation.

A study by O. Sylkin *et al.* (2018) addresses the financial security of engineering enterprises as a prerequisite for the use of crisis management. This study, although indirectly, makes an important contribution to the broader discourse on the financial and resource aspects of digitalisation, in particular, in the context of adapting the criminal process. G.A.S. Atmaja and I.K.A. Mogi (2021) provides practical insights into digital evidence collection methodologies, particularly in cases of online fraud and focus on the use of the NIST method. Their findings are particularly relevant in the context of the evolution of cybercrime and its impact on national security. A paper of N. Hamad and D. Eleyan (2022) offers a comparative analysis of digital forensics tools used in cybercrime investigations. This analysis is essential for understanding the effectiveness and limitations of modern forensic tools in the digital age, providing an important insight into improving electronic evidence processing. Additionally, R. Mothukuri *et al.* (2020), discuss the use of the hybrid ANN-Shuffled frog leaping model to classify decisions in cybercrime cases. This innovative approach demonstrates the integration of advanced artificial intelligence techniques in the analysis and processing of digital evidence, highlighting an important step in the digital transformation of the criminal process.

Based on the results of the analysis of scientific literature and the examination of current trends in the field of digitalisation, the key purpose of this study was determined. It consists in the formation of a modern scientific-methodological approach to choosing the optimal policy for adapting the criminal process to modern digitalisation factors. Special emphasis is placed on the examination and analysis of the latest methods of processing and using electronic evidence in criminal cases, which is relevant both for Ukraine and international practice.

Materials and methods

The study presents a diverse number of methods that form the methodology and lay the foundation for the formation of a new approach to choosing the direction of policy development, rethinking the criminal process, and considering modern factors of digitalisation in the context of strengthening security development at the national level. In general, the research methodology includes: a method for analysing expert assessments to identify factors of influence; a method for multi-criteria evaluation of alternatives; a tabular and graphical method for displaying results; an abstract-logical method for forming conclusions; a method for comparing by preference of options.

The results of the study were visually determined using the graphical and tabular methods. In the course of the study, an approach was presented for choosing a policy for implementing criminal proceedings, and therefore, there was a need to present the factors that influence this choice. 30 experts from Ukraine were selected to determine them (10 practising lawyers; 10 active criminologists; 10 scientists in the field of criminal law) who, through the Google-questionnaire remote survey system, answered which factors in their opinion today in the context of digitalisation have the greatest impact on the criminal process and ensuring national security. Their responses were different and required to be normalised and structured (the group consensus assessment method or the group nominal consensus method helped with this in Zoom interviews). The Delphi method was used to form a single list of factors through a series of anonymous expert surveys. Firstly, the experts were sent questions which they answered, expressing their opinions and assessments. After each round, the responses were analysed, summarised, and sent back to the experts for review and reflection, considering the responses of other participants. This process was repeated several times until consensus or substantial stability of opinion was reached. The Delphi method allowed systematically integrating different standpoints, thus forming an objective and comprehensive understanding of the problem under study. The survey was conducted in the period September-November 2023. Ethical standards were observed during the survey. This means that participants were fully familiar with the study objectives, data collection methods, and ways to further use the information they received. The research was conducted in accordance with the rules of the Helsinki Declaration (1975).

The multi-criteria alternative evaluation method, also known as multi-criteria analysis, is a decision-making method used to evaluate a number of alternatives based on multiple criteria. This method is especially useful in situations where many different factors need to be considered, and complex aspects of a problem or choice need to be evaluated. The option preference comparison method is an important decision-making tool that allows assessing the relative importance or preference of various options or criteria. It starts by identifying all the options that need to be compared. In the future, each pair of options was compared with each other, and participants or experts were asked to rate which of the two options in each pair was better or more important using a rating scale. After collecting estimates for all pairs, the results were analysed, which allowed determining the relative importance of each variant. Therewith, the relativity scale was also used, in which certain factors are compared: 1 – factors are equal to each other; 2 – one factor has a small advantage; 3 – one factor has an advantage over another; 4 – one factor has a large advantage; 5 – one factor has an uncompromising advantage.

The limitations of the research are reflected in two aspects of the study. The list of factors influencing digitalisation is not exhaustive in nature and can be either reduced or expanded to consider new changes in the external environment. The research was conducted considering the specifics of the policy of introducing criminal proceedings in one country. Such restrictions may call into question the possibility of using the results obtained for other countries.

Results and discussion

The concept of "Criminal Procedure implementation policy" refers to the strategies and methods used by management and legislative bodies to reform and improve the criminal process. The introduction and development of the criminal process take place in the context of a balance between ensuring effective justice, protecting human rights and freedoms, and adapting to modern challenges and technologies. In each country, this process depends on specific legal traditions, cultural norms, and technological development. Therewith, it is affected by a different number of factors and threats. Based on the results of organising the opinion of experts through the Delphi method, the key factors of the digital age that influence the policy of introducing criminal proceedings were identified. The mathematical notation for them is represented through the symbol "EF" (Table 1).

Table 1. Factors of the digitalisation era that have a substantial impact on the policy of introducing criminal proceedings

EF	Impact factor	Characteristics
1	Electronic processing of evidence	The digitisation of evidence, such as digital documents, emails, and social media posts, has changed the way evidence is collected, stored, and analysed in criminal investigations. This requires new policies and tools to work with electronic evidence, ensure its authenticity, and protect it from falsification.
2	Data analytics for crime analysis	Digitalisation allows using sophisticated data analytics to analyse and predict crime. This includes the use of algorithms and artificial intelligence to analyse large data sets, which can help identify patterns, predict criminal activity, and aid in preventative police work.
3	Digital surveillance and monitoring	The use of digital surveillance and monitoring tools, including surveillance cameras, GPS tracking, and online activity monitoring, has expanded the capabilities of law enforcement agencies. This raises questions about privacy and civil liberties, requiring clear policies to balance the needs of law enforcement agencies with individual rights.
4	Online crime reporting and public relations	Digital platforms make it easier for the public to report crimes and expand interaction between law enforcement agencies and communities. This can lead to more effective crime reporting, but it also requires policies to manage and verify the receipt of digital information.

Table 1, Continued

EF	Impact factor	Characteristics
5	Cybercrime and digital forensics	With the rise of cybercrime, including hacking, online fraud, and identity theft, there is a growing need for expertise in digital forensics. Policymakers must adapt to combat these specialised crimes, including developing skills and tools to investigate and prosecute cybercrime.

Source: compiled by the authors

Further, it is necessary to present options for approaches to changing and rethinking the policy of introducing criminal proceedings. Therefore, there can be two of them ("GA"). The first is a stable approach to the policy of introducing criminal proceedings. The approach of adaptation to digitalisation is characterised by a more traditional and rigid position. Policies under this approach are updated less frequently and often lag behind rapid technological changes. There is a marked fluctuation in the adoption of new digital tools and technologies based on traditional methods of collecting evidence and investigating crimes. Digital problem-solving training programmes are minimal or outdated, and interaction with external stakeholders is limited, potentially leading to policies that are out of sync with technological advances and society's expectations. The legal framework for this approach tends to be rigid and does not fully consider the nuances and complexities associated with digital evidence and new types of cybercrime.

The second is a flexible approach to the policy of introducing criminal proceedings. It can be characterised by such traits as adaptability and foresight. It emphasises the importance of being aware of technological advances and digital trends. Key features include continuous policy development, active adoption of new technologies such as artificial intelligence and blockchain, and continuous training of lawyers to handle digital evidence and cybercrime effectively. It also involves working together with various stakeholders, including technology experts and privacy advocates, to ensure a balanced approach. Importantly, a legal framework based on a dynamic approach is designed to be flexible and able to consider new forms of digital evidence and cybercrime, ensuring a quick and effective legal response. The key task is to present an approach to selecting one of the criteria. Thus, it is necessary to present in detail the procedure for interaction between factors and selected policy options. Therefore, you can a task hierarchy can be formed (Fig. 1).

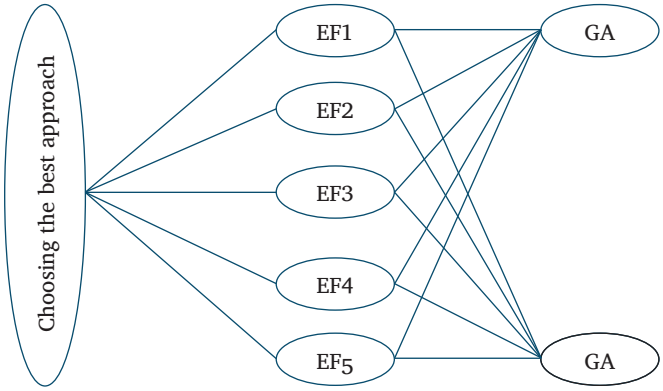

Figure 1. Hierarchy of tasks for choosing the optimal approach to the implementation of criminal proceedings under the influence of digitalisation

Source: compiled by the authors

Next, it is necessary to evaluate alternatives through respect for equality:

$$\frac{n*(n-1)}{2}, \quad (1)$$

where n represents the number of digitalisation factors that influence the policy of introducing criminal proceedings (in the case of this study, there are 5 such factors). Then, when the adaptation approaches (GA) are already compared, a modified version of equality (1) will be used, namely:

$$n * \frac{m*(m-1)}{2}, \quad (2)$$

where m represents the number of possible alternatives for each of the approaches (in the case of this study, there are also 5 such opportunities. This refers to 5 possible alternatives for the development of the influence of factors on the "GA" policy). Next, a matrix of comparisons of certain factors influencing digitalisation on the policy of implementing criminal proceedings is constructed, in which the diagonal is equal to one, and S is the sum of the elements of each column. A paired comparison matrix is created to evaluate elements at the same hierarchy level relative to a specific criterion. If there are n elements, the matrix will be n × n in size. Value 1: there are always units on the diagonal of the matrix because this reflects the comparison of the element with itself, which always has the same importance. A value higher than 1 (for example, 2, 3, ...) shows that the row element is considered more important than the column element. For example, a value of 2 means that a row element is twice as important as a column element. Fractional values (for example, 1/2, 1/3, ...). Indicate that the column element is more important than the row element. Thus, 1/2 means that the column element is twice as important as the row element (Fig. 2).

	EF1	EF2	EF3	EF4	EF5
EF1	1	1/2	1/3	1/4	4
EF2	2	1	4	1/2	3
EF3	3	1/4	1	4	2
EF4	4	2	3	1	5
EF5	1/4	1/3	1/2	1/5	1
S	0.11	0.26	0.14	0.4	0.06

Figure 2. Matrix of comparisons of certain factors influencing digitalisation on the policy of implementing criminal proceedings

Source: compiled by the authors

Further, it is necessary that there is consistency between the opinions and assessments of the experts involved. The value of λmax, which is used to determine the consistency coefficient, is determined to do this:

$$IU = \frac{\lambda max - n}{n-1}. \quad (3)$$

In the examined case, IU = 0.03. Next, WU (the level of inconsistency should be below 10%) is determined via IU/WI, where WI is 1.12 (a number from the table of randomness values, if 5 factors, then 1.12). In the case of this study, it is 3%, which indicates the validity of experts' judgments. Such a comparison allows determining whether the differences between experts are substantial, or whether they are within an acceptable level of randomness. If the level of inconsistency exceeds the established threshold, this may indicate the need to review expert assessments or conduct additional rounds of surveys to achieve greater consensus. Next, it is necessary to compare the proposed approaches with the increased influence of each of the factors. Since there will be 5 such cases, one example of calculation can be presented in detail in the study, and other intermediate calculations will be outside the text (Fig. 3).

	GA1	GA2
GA1	1	2
GA2	1/2	1
S	0.6	0.4

Figure 3. Matrix of comparisons of proposed approaches to changing the policy of implementing criminal proceedings according to the scenario of development of the EF1 factor

Source: compiled by the authors

Then, when for each EF criterion, the matrix was represented as in the case of Figure 3, it becomes possible to determine the priority of one of the proposed approaches to adapting the policy of introducing criminal proceedings in the context of digitalisation and the impact of its factors:

$$U = \sum_{i=1}^{n} s * u. \quad (4)$$

$U_1 = 0.3$. $U_2 = 0.6$, which demonstrates that the most optimal approach to the policy of implementing criminal proceedings is to adapt this process to new technologies. Thus, it can be seen that there is a need to adapt the most sensitive among the processes, namely, working with electronic evidence. In this regard, it is necessary to present a modern mechanism for improving the work with electronic evidence, considering the proposed approach to choosing the optimal adaptation policy.

Thus, the proposed mechanism demonstrates a comprehensive approach to the implementation of criminal proceedings in the context of ensuring national security, with an emphasis on working with electronic evidence. It provides for determining the optimal way to introduce changes in the criminal process, updating the role of electronic evidence in this context. The mechanism described includes improved legislation and improved technical equipment for law enforcement agencies, which work together to strengthen procedures for processing electronic evidence.

Firstly, the way how the results of the study improve the theoretical basis for a given problem should be discussed. The study provides a detailed understanding of how digitalisation affects the criminal process. By integrating the methods of multi-criteria assessment, comparison of advantages and analysis of expert assessments, it is possible to obtain a comprehensive structure that surpasses traditional

approaches. It enriches theoretical discourse by offering a more holistic view of the challenges and opportunities that digitalisation opens up in the criminal justice system. The practical application of the findings in the field of electronic evidence management fills a critical gap in the literature, where previous theories have often focused on the conceptual aspects of digitalisation without fully considering its practical implications in the form of real-world factors of influence. Thus, the study provides a new, effective approach that can be directly applied to improving the criminal process, thereby increasing the practical usefulness of existing theoretical models. Consequently, the theoretical understanding of digital evidence was expanded, going beyond traditional data types and covering a wider range of digital traces. This expansion is crucial in an era where digital evidence can range from online communications to sophisticated data analysis, contributing to a more comprehensive and inclusive theoretical framework that can consider the evolving nature of digital evidence. It is submitted using the corresponding model in the study (Fig. 4).

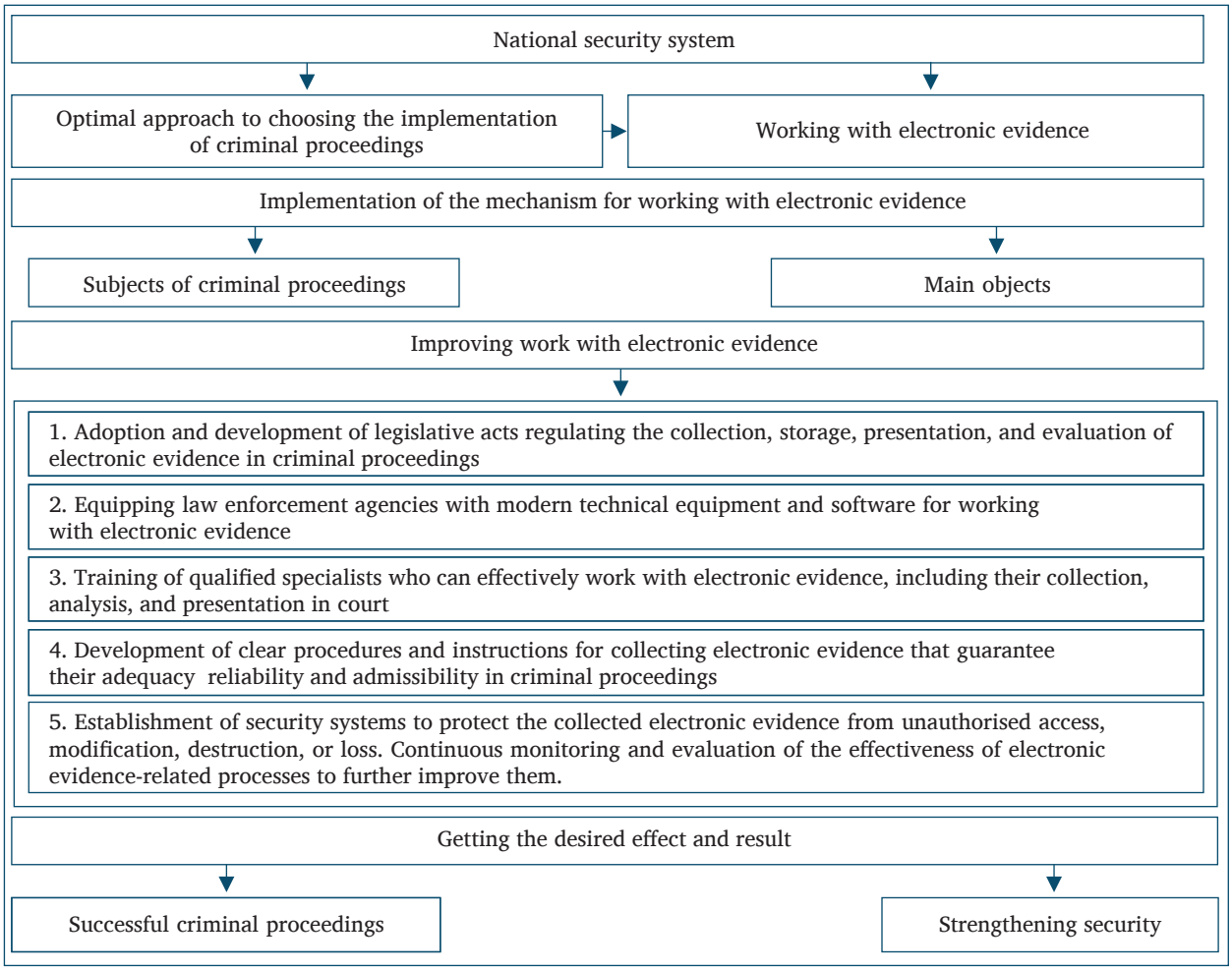

Figure 4. The modern mechanism for improving work with electronic evidence, considering the proposed approach to choosing the optimal adaptation policy
Source: compiled by the authors

When discussing the results obtained, it is necessary to compare them with similar ones in this direction. For example, a study by F.A.F. Alazzam *et al.* (2023) highlights the need for an adapted and legally appropriate digital platform structure, drawing a parallel with the claim that criminal proceedings should be flexible but reliable in dealing with electronic evidence. Their focus on information models in e-commerce provides a useful analogy for how criminal justice systems should develop their information processing processes, especially in the field of electronic evidence.

Methodological approach of A.R. Harutyunyan (2021) to the prevention of crimes against political rights offers a prism through which it is possible to consider the methods. This philosophical-legal approach provides a deeper understanding of the ethical and legal difficulties associated with adapting the criminal process, especially in a politically tense and digitally interconnected world. A paper of T.F. Shih *et al.* (2019) on the cloud-based crime reporting system is consistent with conclusions about the need for innovative digital solutions in criminal proceedings. Their focus on protecting personal data in this digital framework overlaps with the focus of this study on balancing technological progress with individual rights and privacy concerns.

An investigative audit by S. Susanto and E. Purwanto (2023) in environmental affairs demonstrates the specialised application of digital techniques in legal scenarios,

reiterating the claim of this study that criminal proceedings must be adapted to different forms of digital evidence for different types of crimes. A study by A.S. Padmanabhan and S. Sapna (2022) in DNA profiling and data exchange highlights the growing importance of international collaboration in the context of digital evidence. This aspect highlights the emphasis of this study on the need to adapt the criminal process not only within national borders but also in the international arena. A. Hisham *et al.* (2021) demonstrate the practical application of digitalisation in criminal proceedings in crime record management systems, which is consistent with the findings of this study on the need for efficient and adaptable systems for managing electronic evidence. Ultimately, the definition of the digital shadow economy given by R. Remeikiene *et al.* (2018) and P. Pylypyshyn *et al.* (2022) provides context for the study, highlighting the nature of emerging crime in the digital age and the resulting need for a criminal process capable of coping with the complexities of using electronic evidence.

Thus, within the framework of the discussion part of the study, there are key differences inherent in the results of the examination: an approach to improving the formation of a policy of rethinking the criminal process based on the influence of digitalisation factors is presented; two approaches to improving/rethinking the criminal process based on the principles of adaptation under the influence of digitalisation are proposed; a model of flexible access to the introduction of the criminal process and work with electronic evidence is proposed. This study complements and expands on the results of previous studies. Focusing on flexible and sustainable approaches is necessary to contribute to improving criminal procedure implementation policies, which will not only address current digital challenges but also enable national security to evolve in line with future technological advances. This adaptability is critical to shaping appropriate national security policies and the effective administration of justice in an increasingly digital world.

Conclusions

As a result, it should be noted that the results obtained for the current purpose of the study do not exhaust this subject. Evidently, this area of research remains deeply relevant and critical, especially given the current state of war and the growing role of artificial intelligence in criminal investigations. Notably, the key result of the study is the presented approach, which has a number of characteristic innovative provisions and principles. In addition, digitalisation factors were identified that have a substantial impact on the policy of introducing criminal proceedings and ensuring national security. Thus, the scientific-methodological approach to improving the effectiveness of the criminal process when working with electronic evidence was improved. Therewith, two radically different approaches to the policy of implementing the criminal process are proposed: a flexible approach that focuses on continuous improvement and updating of the criminal process in accordance with changing conditions and challenges; a stable approach that focuses on preserving existing norms and procedures of the criminal process. It emphasises the importance of stability and predictability in the legal system, minimising frequent changes and helping to avoid uncertainty in the legal field. As a result of the assessment and modelling, it was determined that in the current conditions of digitalisation and current work with electronic evidence, the most optimal approach to the policy of implementing criminal proceedings, which will make the process of ensuring security possible.

Key areas for further research can be identified. There is a need to investigate the impact of digital warfare and cybercrime on national security strategies. This research should focus on identifying new forms of digital threats, understanding their consequences, and developing a legal and procedural framework to effectively address them. Moreover, the role of international cooperation in the fight against digital crime may be a critical area of future research. This includes examining the effectiveness of existing international legal instruments, understanding the challenges of cross-border digital evidence collection, and proposing a framework for International cooperation and information exchange.

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Conflict of interest

None.

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Політика переосмислення кримінального процесу в системі забезпечення національної безпеки: вплив цифровізації на роботу із електронними доказами

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Анотація. Вибір вірного політичного курсу в питанні переосмислення кримінального процесу має вирішальне значення для адаптації та вдосконалення стратегій національної безпеки для ефективної протидії та запобігання новим формам злочинності, які еволюціонували внаслідок впливу цифровізації. Метою статті було формування сучасного науково-методичного підходу до вибору оптимальної політики адаптування кримінального процесу до сучасних чинників цифровізації. Ключові методи дослідження – метод багатокритеріальної оцінки альтернатив, метод порівняння за перевагою варіантів, метод аналізу за допомогою експертних оцінок. Інноваційність отриманих результатів дослідження розкривається через удосконалений науково-методичний підхід до покращення ефективності кримінального процесу при роботі із електронними доказами. Цей підхід відрізняється від існуючих завдяки своєму зосередженню на формуванні альтернативних варіантів у виборі методів адаптації, надаючи можливість обрати той, який найкраще відповідає вимогам сучасної цифровізації. Основна увага в цьому підході приділяється гнучкості та адаптивності в розробці процедур, які дозволяють ефективно взаємодіяти з електронними доказами, забезпечуючи при цьому високу якість та швидкість кримінального процесу. Завдяки проведеному дослідженню було виявлено, що для України, особливо в умовах інтенсивної цифровізації, найбільш ефективним є гнучкий підхід, який передбачає адаптування та переосмислення традиційних методик кримінального процесу з урахуванням змінюваних умов і викликів, що ставить цифрова ера. Практична значущість отриманих результатів дослідження виражається не лише у можливості їх використання для розробки стратегій, що сприятимуть адаптації країни до викликів цифровізації, але й у їх значущості для підвищення ефективності відповіді на сучасні загрози, такі як кіберзлочинність та інші новітні форми злочинності. Ці результати можуть бути використані для розробки комплексних підходів у боротьбі з кіберзлочинами, включаючи вдосконалення законодавчих норм, поліпшення методів збору та аналізу електронних доказів, а також підвищення кваліфікації правоохоронців

Ключові слова: кримінальне процесуальне судочинство; діджиталізація; використання електронних доказів; національна безпека; кіберзлочинність; моделювання; порівняння варіантів

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Subject of the crime of aggression under international and Ukrainian criminal law

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Abstract. The international community supports the idea of prosecuting those responsible for the crime of aggression. However, the participants in the ongoing war in Ukraine are not signatories to the Rome Statute of the International Criminal Court, and therefore, discussions continue on the possibility of prosecuting those involved in Russian aggression in the newly created special hybrid tribunal. The purpose of this study was to investigate, through legal analysis of international legislation and criminal legislation of Ukraine, the legal regulation of responsibility for the preparation, planning, unleashing, and waging of aggressive war. In the course of the study, the following scientific methods were used: formal-logical, logical-semantic, hermeneutical, statistical, comparative-legal. The study examines the norms of international criminal law and national legislation of Ukraine, which establish criminal liability for the crime of aggression and court sentences issued in Ukraine in this category of cases. The signs of the subject of the crime of aggression are analysed, and the question of which persons are subject to criminal liability for such acts is resolved. It was established that international criminal law and Ukrainian criminal law define the characteristics of persons who can be criminally responsible for unleashing and waging a war of aggression differently, as well as their planning and preparation. It was proved that the absence in the Criminal Code of Ukraine of a clear and literal indication of who can be considered the subject of the crime of aggression does not indicate that it can be any sane person of sixteen years of age. It was proved that this crime can only be committed by persons who are responsible for certain functions in the structure of the armed forces of the country or state power while making decisions in the field of military planning and management, directing, and exercising control over the military or political actions of the state that committed the act of aggression. Therefore, it was generalised that the qualification under Article 437 of the Criminal Code of Ukraine of actions of "ordinary" participants in military operations is erroneous. The results of the study can be used by investigators, prosecutors, judges in the criminal law qualification of the actions of accused or defendants; research and teaching staff and applicants for higher education in the study of criminal law disciplines; and for further scientific research

Keywords: international criminal law; criminal law of Ukraine; preparation of war; aggressive war; subject of crime

Introduction

Since 2014, Russia has been waging an aggressive hybrid war against Ukraine. A full-scale military invasion of RF on the sovereign territory of Ukraine in February 2022 set new challenges for the international community and Ukrainian society. One of the key challenges posed by this war is bringing to justice those who committed this crime of aggression. From a theoretical and practical standpoint, it is extremely important to decide who should be recognised as the subjects of this crime of aggression. After all, in Ukraine, judicial practice is not uniform in solving this problem. The courts issued a number of guilty verdicts, which convicted for the crime of aggression persons who were ordinary participants in military operations and did not take part in either planning or preparing or in unleashing or waging war. The relevance of this issue is also evidenced by the fact that due to the need to formulate fundamental approaches to the interpretation and application of the Ukrainian criminal law norm on the crime of aggression, one of the court cases was transferred to the Grand Chamber of the Supreme Court.

Having examined the issues of qualifying Russia's war of conquest against Ukraine under international law, C. Binder (2023) demonstrated that the Russian attack on Ukraine is a clear violation of international law due to the breach of fundamental norms of general international law, international criminal law, and international humanitarian law. K. Arai (2023) analysed the consequences of the Russian-Ukrainian war through the lens of the application of international humanitarian law in aggressive wars and concluded that despite the Russian Federation's justification of its use of force and its criticism of Ukraine's self-defence actions as "acts of terrorism", the use of armed force by one state against the territorial integrity, sovereignty, and political independence of another state constitutes a crime of aggression.

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M. Kolesnik (2023) investigated the possible impact of the tribunal for the crime of aggression against Ukraine on changes in the United Nations while making a number of relevant comments. In particular, the fact that although the United Nations General Assembly recognised the military operation launched by the Russian Federation in February 2022 against Ukraine as an act of aggression. However, in April 2023, the Russian Federation began its presidency of the UN Security Council. Thus, on the one hand, the international community supports the idea of prosecuting those responsible for this crime of aggression; at the same time, the aggressor itself has become the head of an international institution whose main task is to ensure international peace. According to M. Kolesnik, this development calls into question not only the effectiveness of the UN's activities but also the concept of state responsibility. Analysing the crime of aggression as the most dangerous international crime, O. Voloshchuk (2023) notes that passive behaviour towards the aggressor state by subjects of international law (both altogether and each in particular) gives the offending state an incentive to increase its own "appetites" for the seizure of territories of other states and further stimulates the desire to establish its own hegemony in the international sphere.

A. Khan *et al.* (2021) conducted a review of individual criminal liability for the crime of aggression and concluded that the feature of "leadership" as a characteristic of the perpetrator of this crime is not clearly defined. The issues of responsibility of private individuals for complicity in an aggressive war were examined by N. Hajdin (2022), who argued that it is not limited to the scope of the leadership clause. A similar position is also maintained by P. Grsebyk (2023), who investigated the role of regional customary law in countering the crime of aggression against Ukraine. F. Mégret and C. Redaelli (2022) analysed the crime of aggression through the prism of violating the rights of the population of the state that is waging an aggressive war. V. Navrotsky (2023), examining the relationship between Ukrainian and international criminal law, came to the conclusion that in countering war, these branches of law should be partners, not competitors.

Therewith, a special comparative legal study on the features that characterise the subject of the crime of aggression in international criminal law and criminal law of Ukraine has not been conducted. Thus, the purpose of this study was a legal analysis of international criminal law and Ukrainian criminal law in terms of regulating responsibility for the crime of aggression and establishing the signs of the subject of this crime.

Materials and methods

In the course of the study, a number of methods were used, namely: formal-logical, dialectical, logical-semantic, hermeneutical, statistical, comparative-legal. The objective examination is possible only by considering various aspects of a single phenomenon and carefully analysing and generalising different approaches to its understanding. Therefore, pluralism was one of the main principles in the process of investigating the problems of criminal liability for the crime of aggression. A systematic analysis of various approaches to defining the concept and characteristics of the subject of this crime allowed establishing the optimal way to understand responsibility for such acts.

The study also used a number of formal logical methods. Understanding the texts of primary sources with the disclosure of their meanings that are not expressed explicitly, and by predicting the content of the whole through understanding its parts and vice versa – awareness of the content of parts of the text by understanding the whole was achieved through the use of the hermeneutics method. Using the statistical method for the analysis of quantitative material collected by the Attorney General's Office, the State Judicial Administration, and the Unified State register of court decisions (n.d.) allowed comprehensively analysing and establishing certain regularities of judicial consideration of the examined category of criminal cases. The comparative legal method was used to compare legal norms regulating responsibility for the crime of aggression in international and Ukrainian criminal law.

The international and Ukrainian national normative legal acts that provide for criminal liability for the preparation, planning, unleashing, waging a war of aggression, Ukrainian judicial practice of applying this norm, and scientific publications on this subject were examined. In particular, the following primary sources were analysed: the Charter of the United Nations (1945); unleashing of the General Assembly of the United Nations 3314 (XXIX) (1974); the Rome Statute of the International Criminal Court (1998); the Criminal Code of Ukraine (2001); the sentences of the Nuremberg and Tokyo tribunals. The study examines the judicial practice of Ukraine in cases of planning, preparing, unleashing and waging a war of aggression, in particular, analyses more than twenty sentences handed down by the courts of Ukraine over ten years in the period from 2013 to 2023.

The study also used an information resource developed by Professor M. Karchevsky, which allows systematising quantitative data related to combating crime using the format of reproducible research using the data science methodology (Interactive guide "Combating crime in Ukraine..., n.d.). With the help of this interactive reference book, a visualisation was created that demonstrates the number of registered criminal offences under Article 437 of the Criminal Code of Ukraine (2001) (hereinafter referred to as the CC of Ukraine); the number of persons convicted and acquitted under this article. When creating this visualisation programmatically, the data, which cover the work on combating crime in Ukraine was used. This official information was posted on the above-mentioned resource, which systematised data from reports of the Office of the Prosecutor General of Ukraine and the State Judicial Administration for 2013-2023. The use of the above-mentioned source base and research methods allowed reaching reasonable and objective conclusions.

Results and discussion

Resolution of the General Assembly of the United Nations 3314 (XXIX) (1974) defines aggression as "the use of armed force by a state against the sovereignty, territorial integrity, or political independence of another state". Article 3 of the same Resolution sets out the most common variants of acts of aggression, in particular, occupation, naval blockades, attacks by armed forces and bombing, and assistance to illegal armed groups operating on the territory of other states. Article 8 bis of the Rome Statute of the International Criminal Court (1988) recognises the initiation, preparation, planning, or commission of an act of aggression as a "crime of aggression", its nature, scale, and severity, is a violation

of the Charter of the United Nations (1945), provided that such actions are committed by persons who are actually able to control or direct the military, political actions of the state.

Article 437 of the CC of Ukraine (2001) provides for liability for preparation, planning, unleashing of a military conflict or aggressive war; for participation in a conspiracy aimed at achieving such goals; and for conducting aggressive military operations or aggressive war. However, there is a difference between these norms of international criminal law and the national criminal law of Ukraine: the criminal law of Ukraine does not contain a clear provision on which persons can be the subject of the crime of aggression. Therefore, in the science of criminal law and in the practice of applying the criminal law of Ukraine, there is no single well-established approach to understanding the features that a person subject to criminal liability for a crime of aggression should be endowed with.

In doctrinal research, there are two diametrically opposite standpoints on the problems of the crime of aggression, which are due to different approaches to interpreting the above-mentioned norms of international and national criminal law. The first of these positions is based on the norms of international criminal law (in particular, on the norms of the Rome Statute of the International Criminal Court) and consists in the fact that the subject of the crime of aggression under Article 8 bis of the Rome Statute (1998) is a person who is able to control or direct the military or political actions of a state. N. Hussain *et al.* (2023) note that this leadership clause is a necessary tool to enforce international criminal law and deter future acts of aggression. Criminal acts of high-ranking officials are characterised by characteristics that substantially distinguish them from other criminal-illegal encroachments, in particular: crimes committed by such persons are inextricably linked with and affect the actions of the state; powers of office, and the status of these persons allow them to influence a substantial number of persons under their jurisdiction, and this, in turn, leads to the absence of persons willing to give evidence or persons interested in prosecuting or bringing charges against such high-ranking officials; such persons are endowed with a wide range of political, economic, and human resources to ensure the commission of criminal acts.

In the statutes of international tribunals and in international customary law, there is no list of examples of such official powers or any instructions on the methodology for establishing or determining certain powers, the presence of which would be recognised as sufficient grounds for qualifying the actions of a particular person as a subject of the crime of aggression. It is necessary to assess and analyse all factual circumstances in their totality to establish the circle of persons who can actually control and direct the military or political actions of a particular state, in particular, such as the ability to form the general course of development of the state; determine the national ideology; influence the rule-making process, the creation of national law and its further implementation; approve the composition and leadership of the armed forces of the state; organise tax support for the functioning of the state and its apparatus; make decisions on entering into interstate and international contractual relations (Dubber, 2007).

In this aspect, the sentences of the Nuremberg and Tokyo tribunals are interesting. From their content, it can be seen that only political or military leaders were recognised as subjects of crimes. Thus, during the Nuremberg trial of the main war criminals, high-ranking officials of the government, the military apparatus and the Nazi Party of Germany were prosecuted and convicted of participating in an aggressive war. Thus, the range of subjects of the crime of aggression was limited to a relatively small group of military and political leaders. Therewith, their ability to exercise effective leadership and control, rather than the position outlined by the legal framework, was the decisive factor. The subject of a crime does not necessarily have to make certain decisions in the context of war and peace but must be involved in activities that have exceptional weight for unleashing, preparing, planning, and waging a war of aggression (Werle, 2011).

Thus, as of 2024, according to international criminal law, personal responsibility for the preparation and conduct of a war of aggression is assigned to those who exercise military and political leadership, and more than one person can hold such a "leadership" position. This definition of the subject moves the crime of aggression to the plane of actions exclusively of those officials who have a wide range of powers and actual means to organise and commit international crimes. There is also an opinion in scientific circles that the criteria for such "leadership" have yet to be determined by the International Criminal Court (Khan *et al.*, 2021).

In the theory of international law, it is also suggested that aggression is not only a crime of one state against another. The criminal nature of aggression also lies in its destructive consequences for the population of both states at war. The conduct of war is increasingly interpreted as a violation of the rights of the state's own population, which commits the crime of aggression, including combatants and non-combatants. In this way, internal human rights topics related to the state's responsibility to persons under its jurisdiction are actualised (Mégret & Redaelli, 2022).

Another view is to challenge the requirement described above, which is called the "leadership clause", and to challenge the view that individuals are not criminally liable because they do not have the necessary authority over public policy (Hajdin, 2022). Researchers defending this standpoint, note that the possibility of bringing to justice for the crime of aggression is not limited to the scope of the leadership provision, which is formulated in the Rome Statute (1998) and is broader since it allows bringing to justice all those who knowingly participate, for example, in the conduct of a war of conquest or in the administration of the occupied territories to prepare them for annexation (Grsebyk, 2023). This standpoint is also based on the national criminal law of Ukraine (in particular, article 437 of the CC of Ukraine), according to which any person who actively participates in the conduct of a war of aggression should be held criminally liable for the crime of aggression. After all, Article 437 of the CC of Ukraine (2001) does not contain any requirements for the subject of the crime that it establishes.

Criminal liability of managers, organisers, and participants of the military aggression of the Russian Federation against Ukraine to the international jurisdictional bodies in accordance with the provisions of international criminal law should not exclude their criminal prosecution under the Ukrainian criminal law. In this regard, international and Ukrainian criminal law should not compete with each other but should act as partners (Navrotskyi, 2023). Therewith, the ambiguity and vagueness of criminal law norms and the abuse of judicial and law enforcement agencies in

the application of criminal law means, can have a negative consequence of devaluation, depreciation of these norms of criminal law (Hazdayka-Vasylyshyn *et al.*, 2021).

The analysis of the practice of applying the analysed criminal law norm in Ukraine shows the following. From the beginning of the Russian military aggression against Ukraine in 2014, Ukrainian courts issued a number of sentences on the crime of aggression, namely "Planning, preparing, unleashing, and waging a war of aggression". Statistical data on the number of criminal offences that were considered, the number of persons who were served with a notice of suspicion, and persons convicted under Article 437 of the CC of Ukraine (2001) during the period from 2013 to 2023 are shown in Figure 1. Unified state register of court decisions (Unified state register…, n.d.) in the public domain for the above period contains 20 sentences issued in proceedings under Article 437 of the CC of Ukraine (2001); four of them are acquittals (in terms of charges for the crime of aggression).

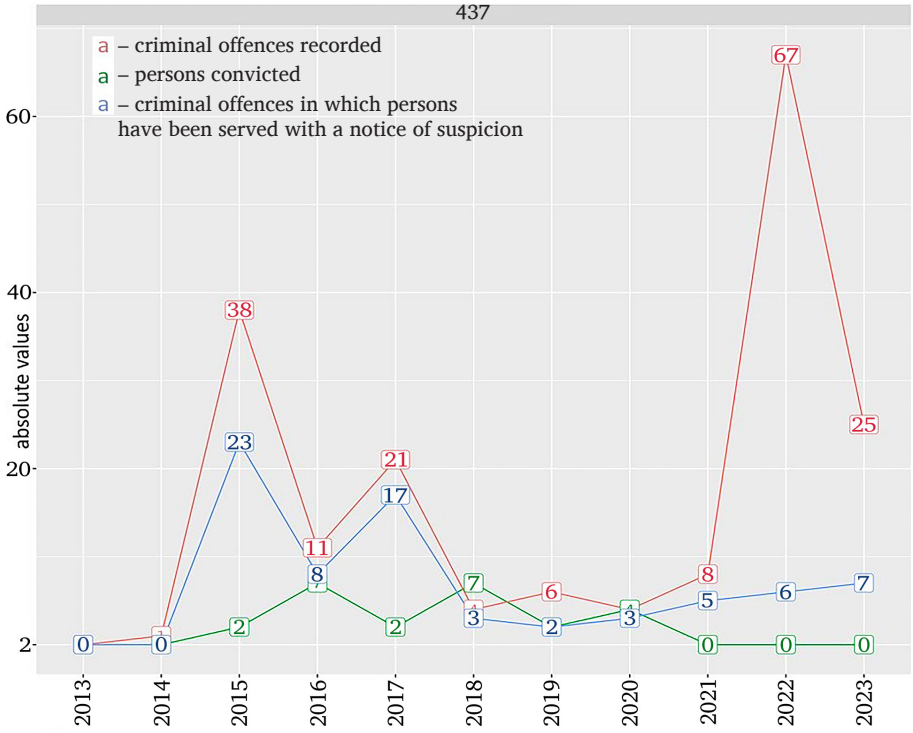

Figure 1. Number of registered criminal offences under Article 437 of the Criminal Code of Ukraine
Source: Interactive guide "Combating crime in Ukraine: Infographics" (2013-2023) (n.d.)

In one of these court proceedings, the Criminal Court of Cassation as part of the Supreme Court issued a ruling on 03.02.2022, by transferring the case to The Grand Chamber of the Supreme Court (Decision of the Criminal Court..., 2022). This transfer was conditioned by the Criminal Court of Cassation by the fact that it is necessary to formulate fundamental approaches to the application and interpretation of Article 437 of the CC of Ukraine (2001) (in particular, in terms of determining the necessary characteristics of the subject of this criminal offence). In the first instance, the verdict against two Ukrainian citizens was handed down by the Lysychansk City Court of the Luhansk region. The citizens were accused of committing several offences under various articles of the Criminal Code of Ukraine, including Part 2 of Article 437 of the CC of Ukraine (2001). The quintessence of the arguments of the defenders in this production is reduced to the fact that according to the definition of the concept of both aggressive war and the crime of aggression, in accordance with international law, convicts cannot be considered subjects of this crime, therefore, they should not be held criminally liable under Article 437 of the Criminal Code of Ukraine (2001).

The process of forming the position of the Grand Chamber of the Supreme Court on determining the necessary features of the subject of a crime under Article 437 of the CC of Ukraine (2001), lasted more than two years. The decision of the Grand Chamber of the Supreme Court of in case No. 415/2182/20 (2022) indicates that the acts defined in Article 437 of the CC of Ukraine (2001) can only be committed by the persons, official powers or actual social status of which allows effectively controlling or managing military and political actions, or have a substantial influence on the armed areas, government and politicians, media, economy, and other spheres of public and political life both in your their state and outside of it, or lead certain areas of military or political actions (Decision of the Criminal Court…, 2022).

Thus, from a legal standpoint, the problem of the subject of those offences that are provided for in various parts of Article 437 of the Criminal Code of Ukraine is manifested in the fact that, at first glance, a literal understanding of the text of this article can lead to the conclusion that their subject is general. Ultimately, there is not a single sign of a special subject of a crime under Article 437 of the CC of Ukraine (2001) that is explicitly provided for. There is no mention of the subject. In contrast to international law, the Ukrainian criminal law does not specify that the subject of such crimes can only be those persons who are factually able to exercise control over the military and political actions

of the state or direct such actions. However, criminal law norms should be interpreted in a comprehensive, systematic way, in particular, it is worth paying attention to those forms of socially dangerous acts, the responsibility for which is enshrined in Article 437 of the CC of Ukraine (2001).

Thus, under the planning of a war or military conflict, it is customary to understand the joint conceptual activities of political and military figures of the highest rank, who form the strategic goals of military campaigns; senior military officials who determine the military means and methods to achieve these goals, and lawyers and ideologues, representatives of diplomatic services which provide maximum international and national campaign legitimacy and the commitment of public opinion to it.

Preparation of a war or military conflict is recognised as an activity that practically coincides with the planning stage, but still, the preparation has its own characteristics; in particular, it manifests itself in practical actions performed to fulfil agreed goals, creating conditions for and organising a military aggressive campaign. In addition, preparation for war can manifest itself in the acquisition, transportation, and installation of weapons and other equipment, which can be used to achieve military goals, in the implementation of measures to transfer the economy to the military type, in the elimination of obstacles, that can interfere with the military manoeuvres or waging war, in the construction of defensive lines and structures. It can also involve developing and adopting necessary legislative acts, increasing the production of military goods, conducting full or partial mobilisation, evacuating the population from strategic objects and localities, and initiating, preparing, and conducting negotiations with possible military allies (Vasyurenko, 2014).

Issuing an order providing for encroachment on the sovereign territory of another state, on its political independence, or other attributes of the state can be interpreted as the unleashing of a military conflict or war. It can also be a declaration of war, although the norms of international law provide for separate responsibility for it, so most of the wars that are currently going on in the world remain undeclared. Unleashing a war is also possible by provoking it, creating a fictional, fake excuse, or staging a conflict situation to force the enemy to use weapons.

Conducting a war or military operations consists in performing managerial actions for the purpose of the implementation of aggressive plans, in particular: general leadership of all forces that are involved in a military conflict or war; implementation of leadership of military by forces or management of the individual operations conducted by them. Such actions may include making changes to the plan of a military conflict or war, creating new versions of the plan of an already initiated military conflict or war. Thus, the conduct of aggressive military operations or war is not just participation in such actions but the management of the armed forces and the control of military operations on the territory of another state to implement a plan of aggressive war or military conflict, which may be accompanied by the occupation of territories, the taking of hostages and prisoners of war, and making adjustments to the plan of war or military conflict, to the plans of military and other operations, the management of the occupied territories, etc. (Yurikov, 2022).

Notably, organised war and its preparation, planning, or unleashing, for the most part, are conducted by representatives of the highest military and political leadership of the aggressor state. That is why, despite the absence of a direct indication of the characteristics of the subject of this crime in Article 437 of the CC of Ukraine (2001), it is quite reasonable to conclude that the subject of this offence is still special. After all, judging by the nature and content of those socially dangerous acts that are prohibited by Article 437 of the CC of Ukraine (2001), this crime can only be committed by high-ranking persons who perform functions in the system of the armed forces of the state or in the system of state power, resolving issues of military administration, exercising leadership and control over the military and political actions of the aggressor state.

Therefore, despite the fact that the article of the Ukrainian criminal law, which establishes criminal liability for the crime of aggression, does not contain an indication of special crime subject, all forms of committing this crime are not characterised by the commission of such encroachments by ordinary citizens. Only military and political leadership has the potential and the appropriate means and resources to participate in planning, collusion, organisation, unleashing, or waging a military conflict or aggressive war (Oliynyk, 2022).

Therefore, qualification under parts one or two of Article 437 of the CC of Ukraine (2001) of the actions of all "ordinary" participants involved in military operations is erroneous. It is necessary to establish and prove that the person has committed at least one of the actions described above, which are alternative forms of socially dangerous encroachment to accuse a particular person of committing a crime of aggression. Therewith, it is worth emphasising that "conducting military operations" is not the same as "participating in military operations".

Guided by similar arguments, the Ukrainian courts issued four acquittals, mentioned above. In particular, on 21.09.2017, the Druzhkivka City Court of Donetsk region issued an acquittal in terms of the lack of proof of the accused's Commission of a criminal offence under Part 2 of Article 437 CC of Ukraine (2001). The panel of judges concluded that "the conduct of aggressive war or aggressive military operations is recognised as managerial actions for the implementation of aggressive plans, in particular, the general leadership of all forces involved in a war or military conflict, the leadership of armed forces, or conducting military operations, etc. These actions are committed after an aggressive war or military conflict has already been resolved, and may include making changes to the plan of wars or military conflict, creating new plans for conducting the war or military operations that have begun". The evidence that the defendant conducted managerial actions to implement military plans or general leadership of all forces involved in the war, leadership of the armed forces, conducting military operations, making changes to the existing war plan, the creation of new military plans, were not provided by the prosecution to the court (Decision of Druzhkivka City Court..., 2017).

However, in judicial practice, there are also errors in the qualification of actions of persons accused of conducting military operations. As an example of such erroneous and inconsistent judicial practice, the guilty verdict issued the day after the above acquittal can be cited. Thus, the verdict of the Krasnoarmiisk city-district court established that in June 2015, a citizen of the Russian Federation, being in a correctional colony on the territory of the Russian Federation, for the purpose of personal enrichment, out of mercenary motives, voluntarily agreed to the proposal of persons

not identified at that time by the pre-trial investigation regarding participation in the terrorist organisation "Donetsk People's Republic" (hereinafter – the DPR) and conducting aggressive military operations on the territory of Ukraine. The accused crossed the state border of Ukraine on foot and signed a contract with representatives of "DPR", voluntarily joined the terrorists, which were controlled by representatives of the Russian Federation, which waged an aggressive war against Ukraine. After joining the specified terrorist organisation, he received the call sign "Rumyn" and was appointed to the post of intelligence officer of the 2nd platoon of the intelligence company of the 5th Donetsk separate motorised rifle brigade "OPLOT" of the terrorist organisation "DPR". The verdict also states that the defendant committed aggressive military operations and terrorist acts, attacks on organisations, enterprises, institutions, and citizens in the Donetsk and Luhansk regions of Ukraine, identified the location of military equipment and fortifications, personnel of the Armed Forces of Ukraine, corrected the fire on them by the artillery of the terrorist organisation. That is, he took an active part in military operations, but did not exercise general leadership of all the forces involved in the conflict, did not direct the armed forces, the conduct of military operations. Despite this, his actions were (in the opinion of the study, wrongly) qualified by the court as "waging a war of aggression by prior agreement of a group of persons" (Decision of the Krasnoarmiisk City-District…, 2017).

I. Basysta (2022), exploring the options of possible jurisdictional ways to resolve the issue of responsibility for the crime of aggression, states that international experts identify four possible options for the prosecution of the military aggression crimes committed in Ukraine: (1) International Criminal Court; (2) international tribunal *ad hoc* 3) a national court exercising territorial jurisdiction (in Russia, Belarus, or Ukraine); 4) a national court exercising universal jurisdiction (Dannenbaum, 2022). Considering that this crime cannot be investigated by the International Criminal Court due to a number of restrictions, the process of establishing a special tribunal *ad-hoc* was launched, certain steps have been taken to create it. Although the discussion in the international scientific society regarding the creation of such a special tribunal is characterised by different standpoints: both approving and having certain reservations (Lebid, 2022). Scientific circles discuss the question of founding a special international tribunal for investigating the crime of aggression by Russia against Ukraine, focusing on the main challenges that arise in the process of creating such a tribunal (Voytsikhovskyi & Bakumov, 2023; McDougall, 2023).

Therewith, national justice must provide an appropriate criminal law assessment and the response of the state to each fact of committing a criminal offence, while international jurisdictional bodies conduct their activities on the basis of complementarity (they begin to act only in cases where a certain state does not want or cannot conduct a criminal assessment and legitimate prosecution of the relevant crimes). This provision is based on the basic rule that, within the limits of its sovereignty, criminal liability must be exercised by the state in the sovereign territory of which the crime was committed, while being guided by the national criminal law. This is one of the constructive foundations of state sovereignty. (Navrotskyi, 2023). Therefore, if any sane individual who has reached the age of 16 has committed at least one of the actions provided for in Article 437 of the CC of Ukraine (2001), then it is subject to criminal liability and such an action in accordance with the current criminal law of Ukraine.

Conclusions

At a time when the current international criminal law refers to the subjects of the crime of aggression, only persons who are able to actually control the military and (or) political actions of the state and (or) direct them, the scientific sphere actively discusses the criteria for such "leadership", and the possibility of bringing to criminal responsibility those persons who do not occupy such a "leadership" position, but simultaneously take an active part in the conduct of aggressive warfare.

Ukrainian criminal law does not contain such direct restrictions on the subjects of the crime "planning, preparing, unleashing, and waging a war of aggression". According to the current Criminal Code of Ukraine, the subject of this crime is general. According to the generally recognised rule, criminal liability is implemented by the state on the territory of which the criminal offence is committed under national criminal law. Therefore, hypothetical criminal liability of managers, organisers, or participants of the Russian military invasion of Ukraine in accordance with the provisions of international criminal law, possible in the distant future, should not exclude the possibility of their immediate criminal liability in Ukraine under the current Ukrainian criminal law.

The analysis of the judicial practice of Ukraine showed that there is no unity in the interpretation and application of the criminal law norm, which provides for responsibility for planning, preparing, unleashing, and waging a war of aggression. In particular, active participation in military operations is often interpreted by the courts as waging a war of aggression; simultaneously, there are acquittals in which similar actions (participation in war) are not recognised as forming a crime under Article 437 of the Criminal Code of Ukraine.

As a result of the conducted study, it is worth summarising that qualifying the actions of a specific subject under Article 437 of the Criminal Code of Ukraine, it is necessary to establish that they committed at least one of those alternative socially dangerous acts provided for by it. Special attention, in this case, should be drawn to the fact that the conduct of aggressive war or aggressive military actions is not just participation in such actions but the implementation of managerial actions for the implementation of the military plan, in particular, the implementation of the general leadership of all forces involved in the war, the implementation of the leadership of the armed forces, or the conduct of military operations.

A promising area of research on the subject is the examination of opportunities for draft law development on amendments to Article 437 of the Criminal Code of Ukraine, which would improve its text in such a way as to exclude different understandings and interpretations of its content.

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Conflict of interest

None.

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Суб'єкт злочину агресії за міжнародним та українським кримінальним правом

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Анотація. Світове співтовариство підтримує ідею судового переслідування осіб, винних у злочині агресії, проте, учасники триваючої війни в Україні не є сторонами Римського статуту Міжнародного кримінального суду, у зв'язку з чим тривають дискусії щодо можливості переслідування осіб, причетних до російської агресії, у новоствореному спеціальному гібридному трибуналі. Метою цієї статті було вивчення, шляхом правового аналізу міжнародного законодавства та кримінального законодавства України щодо правової регламентації відповідальності за підготовку, планування, розв'язування та ведення агресивної війни. В ході дослідження використано такі наукові методи: формально-логічний, логіко-семантичний, герменевтичний, статистичний, порівняльно-правовий. Було досліджено норми міжнародного кримінального права та національного законодавства України, якими встановлена кримінальна відповідальність за злочин агресії, а також судові вироки, винесені в Україні за даною категорією справ. Було проаналізовано ознаки суб'єкта злочину агресії та вирішено питання про те, які саме особи підлягають кримінальній відповідальності за такого роду діяння. Встановлено, що міжнародне кримінальне право та український кримінальний закон по-різному визначають ознаки осіб, які можуть нести кримінальну відповідальність за розв'язування та ведення агресивної війни та її планування і підготовку. Було доведено, що відсутність у Кримінальному кодексі України чіткої та буквальної вказівки на те, кого можна вважати суб'єктом злочину агресії, не свідчить про те, що ним може виступати будь-яка фізична осудна особа шістнадцятирічного віку. Доведено, що цей злочин можуть вчинити лише особи, які відповідають за певні функції в структурі збройних сил країни або державної влади, при цьому приймають рішення в сфері воєнного планування та управління, керують та здійснюють контроль за воєнними або політичними діями тієї держави, яка здійснила акт агресії. Тому було узагальнено, що кваліфікація за статтею 437 Кримінального кодексу України дій "рядових" учасників, які беруть участь у воєнних діях, – помилкова. Результати дослідження можуть бути використані слідчими, прокурорами, суддями при кримінально-правовій кваліфікації дій обвинувачених чи підсудних осіб; науково-педагогічними працівниками та здобувачами вищої освіти при вивченні кримінально-правових дисциплін; а також для подальших наукових розвідок

Ключові слова: міжнародне кримінальне право; кримінальне право України; підготовка війни; агресивна війна; суб'єкт злочину

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Public and fair consideration of a case by an impartial and independent court in criminal proceedings: European standards and Ukrainian realities

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Abstract. Accessible justice and public and fair consideration of the case are important achievements of humanity, but Ukraine's legislation does not provide all the opportunities that can allow participants in the judicial process to influence the course of pre-trial investigation and judicial proceedings, which actualises the research on the subject. The purpose of the study was a comprehensive analysis and generalisation of various aspects of the exercise by private participants in criminal proceedings of the right to a fair and impartial consideration of a case by a court. The study was conducted on the basis of a number of general scientific methods and asynchronous comparative analysis of the previous and current criminal procedure legislation and practice of Ukraine, a number of international acts, acts of a recommendatory nature, case law of the European Court of Human Rights. The analysis of the Ukrainian criminal procedure legislation, considering its compliance with the provisions of European standards of access to justice allowed stating that, in general, these standards are met and sometimes even exceeded. Therewith, there are certain omissions and shortcomings of the national legislator in relation to certain special procedures of criminal proceedings – namely, proceedings based on agreements and proceedings in private prosecution cases. Such shortcomings groundlessly block and make it impossible for both parties to the criminal conflict to actually appeal to the court: the victim (or one who considers themselves as such), the suspect/accused, and persons who are not parties to a particular criminal proceeding but the interests of whom are directly affected by the court's decision. It was argued that the problems concerning the implementation of real access to justice in criminal proceedings in Ukraine have many insufficiently examined or rather controversial theoretical aspects, the legal regulation of certain provisions by the national lawmaker is far from generally recognised world and European standards and rules, and the relevant law enforcement practice is also imperfect. Therewith, it was stated that certain law enforcement, legislative, and theoretical problems still have effective solutions. The considerations and conclusions set out in the study can be used by the legislator when making changes and additions to certain regulatory legal acts and can be useful for both individuals and employees of criminal justice bodies

Keywords: access to justice; European guarantees; national standards; criminal proceedings; private prosecution cases; plea agreements

Introduction

The interest in ensuring access of participants in criminal proceedings to justice is not accidental. It is due to the fact that without the right of a person to freely apply for protection of their rights and legitimate interests to the bodies conducting criminal proceedings (in particular, directly to the court) and the ability to actively seek the adoption of a reasonable and legitimate court decision, the formation of a democratic state governed by the rule of law (and this is exactly what Ukraine has declared itself), it is impossible. Moreover, such guarantees are important not only for the victim or civil plaintiff but also for the opposite party to the criminal conflict – first of all, for the suspect/accused

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and the civil defendant. However, the powers granted by law for access to justice of individual actual (or potential) participants in criminal proceedings often do not correspond to the legal, socio-economic, criminological realities, and sometimes to the level of legal culture of many such persons. The criminal procedure legislation of Ukraine has undergone substantial additions and changes related to social and political transformations, due, in particular, to the recognition at the constitutional level of a person, their rights and freedoms of the highest social value (Constitution of Ukraine, 1996). However, this has not been adequately reflected in the authority of individuals to access justice. The relevant capabilities certainly need to be further expanded.

Many publications by both national and foreign researchers were devoted to the problems of real access to justice, including such an aspect of it as public and fair consideration of criminal proceedings by an impartial and independent court. The right to a public and fair hearing of a case by an impartial and independent court in criminal proceedings (as a component of the right to access justice) is traditionally recognised for all parties to a criminal conflict (both representatives of the prosecution and representatives of the defence). In addition, some specialists, in particular, A.A. Adebayo and A.O. Ugowe (2019) draw attention to the unacceptable accusatory bias of individual law enforcement officers, who a priori recognise a person who has the status of a victim as a victim of a criminal offence, and a suspect/accused as actually guilty. Therefore, in every possible way, they prevent the latter from exercising the rights with which he can prove their innocence or lesser guilt. Thus, those who are primarily responsible for assisting individuals in access to justice, in fact, block this right themselves. This problem was also analysed by K.S. Wallat (2019), demonstrating an extremely negative attitude to such situations and pointing out their absolute inadmissibility. V. Navrotska (2021) states that, unfortunately, unsuccessful legal regulation, negligence, and inattention of law-makers in individual countries also lead to the fact that sometimes the accused in private prosecution cases are provided with incomparably fewer guarantees and opportunities to defend their own interests in criminal proceedings than the victim. This is manifested, in particular, in ignoring at the legislative level quite fair requirements of the accused to continue criminal proceedings when a person with the status of a victim dropped out of the trial for various reasons – refused the accusation, did not arrive at the court session, died (Barbera & Protopapa, 2020).

In the context of the examination of the "promotion/benefits of protection" framework (*favour defensionis*), which consists in providing evidently "weaker" participants in criminal proceedings (for example, minors, persons with mental disorders, those who, due to physical disabilities, are not able to fully defend their interests independently) with additional guarantees and benefits (including those related to the possibility of their access to the bodies conducting criminal proceedings), Q. Robertson (2020), I. Elliott *et al.* (2020) indicate that these additional preferences and all possible assistance in the implementation of the relevant right are fully justified. Therewith, E. Durojaye *et al.* (2020), V. Navrotska and N. Ustrutska (2022) also draw attention to the reverse side of the relevant legal regulation, pointing out that sometimes the legislators of individual countries, in fact, equate such persons with virtually completely procedurally helpless ones. Thus, the state provides these participants with additional benefits but unreasonably takes away those legal opportunities that they could fully implement on an equal basis with persons with full procedural legal capacity.

A cursory analysis of the latest publications, which cover various aspects of the problems of ensuring the rights of private participants in the process of accessing justice (in particular, such a component as the right to a public and fair hearing of a case by an impartial and independent court), shows that these issues were by no means ignored in the legal literature. However, it is necessary to state that most of the papers are devoted to separate issues of participation of the victim in criminal proceedings and compensation for damage caused to them by a criminal offence or other socially dangerous act, participation of a person in respect of whom the issue of applying compulsory measures of a medical or educational nature is being resolved, or general aspects of access to justice of interested persons.

When regulating certain special procedures of criminal proceedings, the developers of the Criminal Procedural Code of Ukraine (2012) (hereinafter – CPC of Ukraine) did not consider certain European generally recognised minimum standards and rules, numerous proposals to strengthen the legal status of private participants in criminal proceedings, guaranteeing them real access to justice. It is necessary to state that the victim, the suspect/accused, and other interested persons in private prosecution and criminal proceedings when concluding plea agreements, are not endowed with all possible set of procedural powers that can provide them with real opportunities to influence the course of pre-trial investigation and trial, make a final decision that would fully reflect their interests. Therefore, the authors of the study aim to: 1) analyse the provisions of Ukrainian legislation regulating the procedure and form of participation of interested individuals in cases where criminal proceedings are conducted in the form of private prosecution, proceedings when concluding agreements in criminal proceedings, theoretical developments of this problem, and the practice of applying the relevant legal norms from the standpoint of considering the European standards of access to justice by the national lawmaker; 2) if necessary – express and justify proposals aimed at improving the relevant legal norms and the practice of their application.

Literature review

Undoubtedly, to make proposals for ensuring more effective access to justice for private participants in criminal proceedings, it is necessary, first of all, to analyse both the reasons and conditions that prevent such access and the circumstances that, on the contrary, contribute to ensuring that the right of the parties to a criminal conflict to a public and fair consideration of the circumstances of a case by an independent and impartial court does not remain an empty declaration set out on paper, but is actually effective and real. The relevant issues have been investigated to a certain extent in the legal literature.

In particular, C.P. Sabatino (2019), M. Woodbur (2020), and A. Storgaard (2023) consider access to justice not only as an important provision of the national legislation of any truly democratic state or the provisions of a number of international acts but also as an independent basis for criminal proceedings, as those minimum standards, "departure" from which is impossible under any conditions (in particular, during a state of war or emergency). L. Wing (2018)

and O.Y. Tuck Leong (2018) predict that in the foreseeable future, the widest possible use of artificial intelligence to help pre-trial investigation bodies and professional judges, their relief from the excessive volume of cases under consideration (which, in turn, will lead to access to justice for a larger circle of people), will become not fiction but an objective reality. Therewith, the mentioned researchers analyse the negative aspects of the use of artificial intelligence and draw attention to the fact that in criminal proceedings, there will still be those areas and issues that cannot be resolved without subjective discretion. Therefore, according to V.B. Davis (2019), the "machine" in justice will never completely displace or replace a living law enforcement/human rights officer with emotions, feelings, and certain attitudes. H. Reasoner (2019), H. O'nions (2020), and J. Sigafoos and J. Organ (2021) state an objective inequality in access to justice for persons with a low level of education and material support (compared to those whose socio-economic level is higher), highlighting a way to overcome or at least minimise such a situation, which is reduced, in particular, to providing such a category of defender at the expense of the state or certain charitable foundations. A number of specialists, in particular, I. Elliott *et al.* (2020) and K. Fitz-Gibbon and N. Pfitzner (2021) point out that, for the most part, employees of the bodies conducting criminal proceedings are ready to provide victims of crimes or other socially dangerous acts with maximum assistance and help in their access to justice. However, sometimes law enforcement officers do not know about the committed criminal offence due to the fact that the corresponding act was committed in conditions of non-evidence. They may not know about this act, first of all, because the victims themselves or eyewitnesses do not even try to apply with a demand to start criminal proceedings and bring the offender to justice, but it is impossible to get such information from other sources at a certain stage. The reasons for the absence of complaints about the committed criminal offence can be diverse. If such a reason is the lack of basic knowledge and skills in defending their interests related to legal ignorance, then for this purpose, B. Bilson *et al.* (2018). proposed to widely apply universal legal education (including, in particular, teaching schoolchildren, posting information about the conditions and procedure for contacting law enforcement officers in public places – at metro and bus stops, in supermarkets, in public libraries, etc.). Other researchers agree with this approach. Thus, K. Carrington *et al.* (2020), T. Hubbard *et al.* (2020), and R.A. Gonzalez (2020) emphasise that taking appropriate measures is a fairly effective means of promoting access to justice and defending the personal interests of victims of national and gender-based violence. The reason for the absence of appeals to law enforcement officers about the committed criminal offence on the part of private individuals (actual or potential participants in criminal proceedings) may also be fear caused by violence already committed or the threat of its use by the abuser – causer of harm or other interested persons. For this circumstance to not block the possibility of victims contacting law enforcement agencies, individual researchers, for example, D. Bonilla Maldonado (2020), propose to apply truly effective security measures and expand the grounds for their application and the category of persons who have the right to take appropriate measures.

Thus, the analysis of the positions expressed by experts allows identifying the following main reasons that prevent the participants of criminal proceedings from properly exercising their right to a fair, public, and impartial consideration of the case by the court: shortcomings of legal regulation in the relevant field, abuses on the part of law enforcement officers and the court itself, and sometimes – legal nihilism, the inability of individual private participants – parties to a criminal conflict to use existing and real legal opportunities and means to defend their rights and legitimate interests. Therewith, researchers of the relevant problem (in particular, the authors of this study) not only state that such negative manifestations can and should be dealt with but also provide specific recommendations for overcoming them.

Materials and methods

The research methods were chosen primarily considering its subject matter and the functions of the relevant legal and social phenomenon. Public and fair consideration of the case is considered as one of the main principles and goals of criminal proceedings, which is crucial for ensuring the interests of both the state and each of the participants in criminal proceedings.

The analysis is based on the approach of idealistic dialectics, which acts as a basis for applying a number of other general scientific and special scientific (legal) methods. The dialectical approach to public and fair consideration of a case is reflected in its consideration as a dynamic phenomenon characterised by constant development, in particular, in terms of ideas about what are the criteria for publicity and fairness and what is the impartiality and independence of the court, what standards should be guided in assessing the achievement of the relevant parameters of legal proceedings. Dialectics in the examination of the subject of this study also consists in the examination of the consideration of a case as such a phenomenon, characterised by many interrelated elements that are in system connections and interact both with each other and with higher-order systems. Ultimately, publicity and justice in criminal proceedings, in general, and in relation to judicial proceedings, in particular, are considered an indispensable component of democracy. In addition to that, the research methodology is aimed at showing how approaches to the relevant parameters of judicial consideration of criminal proceedings are changing in Ukraine in the direction of focusing on the best European and world practices. Thus, another general scientific approach that underlies this study is the systematic approach.

A component of the dialectical and systematic approach to analysing the problems raised in this publication is the analysis of the state of their research in the literature. Therewith, there are generally accepted and recognised provisions that are unconditionally accepted (in particular, that the fairness of judicial proceedings and the right to access justice are important values of a developed democratic society, the ideals of which Ukraine shares), positions on which discussions are being held, provisions that have not received proper consideration, at least in the national literature. It is on the latter that the main attention is focused. This includes, in particular, overcoming the accusatory bias in the activities of the criminal justice bodies of Ukraine, improving certain special procedures for criminal proceedings, ensuring European standards and best international practices of access to justice.

Along with these, other general scientific methods were also used in the examination of public and fair consideration of a case by an impartial and independent court. In particular,

the method of abstraction is used to avoid insubstantial differences between the legislation and law enforcement practices of Ukraine and other states. The induction method allowed identifying the characteristic features of publicity and justice in judicial proceedings and showing their importance for the implementation of human rights. The method of analysis and synthesis is used to analyse fair legal proceedings as a factor that serves the realisation of the rights not only of the defendant but also of the victim, the state, and society. Ultimately, it is the most important component of the rule of law in the criminal law aspect. Due to the appeal to the method of idealisation, an ideal model of ensuring publicity and justice, impartiality of judicial proceedings, is built on a balance between private and public interests, which is not related to national specifics and features of a particular historical period.

Special scientific methods were used due to the fact that the research is legal, more specifically, criminal procedure. Therefore, its important component is dogmatic analysis in the course of establishing the content of legal norms, law enforcement positions, and critical assessment of theoretical views expressed on the subject of this study. The method of comparative law is used to compare national law and the law of a number of foreign states to identify both positive legislative and law enforcement decisions that deserve to be perceived and norms and law enforcement positions in foreign law, which should be refrained from receiving in Ukraine. The same method is the basis for identifying the range of international legal obligations of Ukraine aimed at ensuring the independence of the court and the implementation of human rights in the field of criminal justice. Thanks to the use of this method, the Ukrainian criminal procedure legislation is evaluated for compliance with European standards of access to justice, its shortcomings are identified, and proposals are formulated to eliminate them. The historical approach (asynchronous comparison method) concerns comparing the provisions of previously existing and existing normative legal acts regulating the status of the court and the rights of participants in judicial proceedings. This approach ensures justice in resolving criminal proceedings and identifies patterns and trends in the development of legislation and law enforcement practice in the relevant part. The method of legal forecasting is used to predict how the Ukrainian model of criminal procedure will develop in terms of ensuring optimisation of the court's activities and achieving public and fair consideration of criminal proceedings.

In addition, other methods of scientific analysis were used to examine and solve partial issues. All methods are applied in interrelation, complement each other and allow achieving the truth and success of the search, consistency of the conclusions and scientific results obtained, and legislative and law enforcement proposals.

Results and discussion

The right to ensure free access to criminal proceedings, in particular, and its components, such as the right to a public and fair hearing of a case by an impartial and independent court, are based on the idea of a state governed by the rule of law, the existence of inalienable human rights, and the principle of separation of powers. The idea of free access to justice (along with the principle of independence of the judiciary) is the foundation of modern approaches to fair justice. It is generally accepted that ensuring the realisation of the rights of individuals (both individuals and legal entities) to judicial protection is and should be one of the priority areas of activity of any truly democratic state in the reform of criminal justice bodies. Therewith, there are discussions about what opportunities and powers can be used by real and potential participants in criminal proceedings, exercising their right to appeal to the court. The question of how fully recognised European guarantees and standards of the right to a public and fair hearing of a case by an impartial and independent court have found their manifestation in the regulation in Ukraine of one of the most widely used special procedures of criminal proceedings – proceedings based on plea agreements and cases where criminal proceedings are conducted in the form of private prosecution is controversial.

The right to a public and fair hearing of a case by an impartial and independent court in criminal proceedings is a component of the right to access justice. The concept of access to justice (under European and international human rights law) imposes obligations on states to guarantee the right of everyone to apply to a court (in extreme cases, to an alternative body resolving legal disputes) to obtain legal protection in situations where the applicant's rights have been violated. This right, in fact, helps a person to achieve the realisation of their other rights.

The right of access to justice (according to Articles 6, 13 of the European Convention on Human Rights (1950), Article 47 of the Charter of the European Union on Fundamental Rights (2020), approaches defended in the legal literature, in particular, V.P. Shibiko and M.S. Dankevich (2020), V.P. Shibiko (2022), and M.V. Savchyn *et al.* (2022), and reflected in numerous decisions of the European Court of Human Rights, among which the decision "Goldberg v. the United Kingdom" (1975) should be highlighted, is complex and includes the following elements: the right to a public and fair hearing by an impartial and independent court (or other body); the right to legal assistance; the right to legal advice, representation, and protection; and the right to an effective legal protection.

Considering the absolute complexity and versatility of the right of access to justice, and, consequently, the objective impossibility within the framework of one article to characterise and analyse (at least in passing) all aspects of this right and problems that arise (or may arise) in practice in connection with the improper (insufficient) implementation in the national (Ukrainian) legislation of provisions that would ensure the effective and most complete implementation of this right, it is necessary to refrain to analysing the first aspect (components) of access to justice.

A public and fair hearing of a case by an impartial and independent court means that access to justice is exercised through the courts, both in accordance with Article 6 of the European Convention on Human Rights (1950) and in accordance with Article 47 of the European Union on Fundamental Rights (2020), a person can apply to the court not only for criminal charges but also for the purpose of resolving disputes regarding civil rights/obligations – in particular, in the case of filing of claims in criminal proceedings). Article 6 of the above-mentioned Convention (European Convention on Human Rights, 1950) is also confirmed by the ECHR in the decision "Hornsby v. Greece" (1997), guarantees the right of the interested party to independently initiate a judicial review of the case. Access to a court is not an absolute right (in cases provided for at the national

level, this right may be restricted. The Strasbourg court, in the decisions "Goldberg v. the United Kingdom" (1975) and "Ashingdane v. the United Kingdom" (1985), indicates that it should be considered that such restrictions cannot violate the very essence of the right, they must have a legitimate purpose. The ECHR's decision in "McGinly and Egan v. The United Kingdom" (2000) states that there must be an appropriate proportional relationship between the goal set and the means used. The ECHR refers to legal restrictions, in particular, the statute of limitations established by law, but the right to restrict access to the court in connection with missing the deadline for applying to the court should be applied with a certain flexibility and without extreme formalism (Decision of the European Court of Human Rights in the Case No. 33658/04..., 2000), normative regulation of the right to appeal to the court of persons with limited legal capacity or incapacitated persons (Decision of the European Court of Human Rights No. 49069/11…, 2013), and minors (Decision of the European Court of Human Rights in the Case No. 14/1983/70/106…, 1985). The ECHR also states that the existence of procedural obstacles that reduce or hinder access to a court, in particular, an excessively strict interpretation of procedural rules by a national court, unjustified procedural formalism ("Purism"), can effectively deprive applicants of the right of access to a court (Decision of the European Court of Human Rights in the Case No. 28090/95..., 1998) – access to justice should not only be formal, but also real – the ECHR emphasises that the right of access to a court should be effective; there should not be too formal attitude to the requirements provided for by law (Decision of the European Court of Human Rights in the Case No. 15123/03…, 2007). Judges should be impartial and independent, for which the ECHR has established clear rules on guaranteeing the neutrality and independence of judges (which relate to the method of appointing a person to the position of judge, the system of guarantees against illegal external influence and pressure, and the term of their powers); however, the court is considered impartial until proven otherwise (and the judge must be impartial both subjectively and objectively) (Decision of the European Court of Human Rights in the Case No. 21825/93…, 2000).

In addition, the trial must be: fair (including the right to adversarial proceedings, equality of procedural means of the parties (Decision of the European Court of Human Rights in the Case No. 35227/06..., 2013), the right to make an informed decision, ensure the enforcement of a final decision) (Decision of the European Court of Human Rights in Case 4451/70..., 1975); public (which, except for the possible presence of the public at open/public court sessions (Decision of the European Court of Human Rights in the Case No. 48778/99…, 2002; Decision of the European Court of Human Rights in the Case No. 58112/00..., 2003), also provides for the presence in court of the person whose rights and interests relate to the proceedings, the ability to express their position and considerations on the merits of the case, and their ability to obtain information about available evidence or factual data that can be used as evidence (Drozdov, 2021). Thus, having analysed what the concept of "the right to a public and fair hearing of a case by an impartial and independent court" includes (as one of the components of the broader concept of "the right to access justice"), it is necessary to identify whether it is properly ensured in Ukraine.

The CPC of Ukraine (2012) has a number of provisions from which, in particular, a number of consequences follow. Firstly, everyone is guaranteed the right to a fair hearing and resolution of proceedings by an impartial and independent court, and everyone has the right to participate in the consideration of a case concerning their rights and obligations in a court of any instance. Secondly, as a general rule (unless otherwise provided by the CPC of Ukraine), the implementation of criminal proceedings by Ukrainian courts does not prevent a person's access to other means of legal protection, in particular, to the European Court of Human Rights (Paragraph 14 of Part 1 of Article 7, Part 2 of Article 7, Article 21), that the consideration of proceedings is, as a general rule, open and derogation from this provision is possible only in cases directly provided for by law (Part 2 of Article 27). Even when passing a verdict based on the results of special criminal proceedings "in absentia", the court must separately justify that the prosecution has resorted to all measures provided for by law to respect the rights of the suspect/accused to access justice (Part 5 of Article 374) (Criminal Procedural Code of Ukraine, 2012). Thirdly, despite the fact that Article 6 of the European Convention on Human Rights (1950) does not explicitly guarantee the right to appeal court decisions, and contracting states (including Ukraine) do not have obligations to establish courts of Appeal and Cassation, but the national legislator (given that the ECHR (Decision of the European Court of Human Rights in the Case No. 19075/91..., 1996), rightly considers the right to such an appeal an integral part of the right to defence and still provides participants in the process with such an opportunity, etc. However, the analysis of certain provisions of the CPC of Ukraine gives grounds for asserting that the legal regulation of the analysed law (and, consequently, the practice of its application) is far from perfect and from the standards that are consistently defended by the European Court of Human Rights in this regard.

Access to justice in private prosecution cases. The situation in Ukraine is ambiguous regarding the exercise of the right to a fair and public hearing by a fair court (as a component of the right to access justice) in private prosecution cases. In the new CPC of Ukraine (2012) in comparison with its "predecessor" – the CPC of Ukrainian SSR, 1960), there are a number of substantial advantages as well as obvious miscalculations, and there is also something that was not considered by the legislators in both codes.

The advantages include the fact that, first of all, the requirements that must be met by the appeal (which in this case is the only reason for starting criminal proceedings) of the relevant private person who considers themselves a victim of acts belonging to the category of private prosecution cases and seeks to bring the offender to justice and achieve punishment for what he has done have substantially changed. Thus, according to the CPC of Ukraine (1960), such an appeal (referred to as a "complaint") was, in fact, analogous to a prosecutor's indictment. Moreover, the code in force at that time provided for such requirements for complaints that a private person could not comply with in any way.

First of all, according to the provisions that existed at that time (literally interpreting the norm of CPC of Ukraine (1960), according to which the requirements for the victim's complaint were similar to the requirements for the indictment), the victim's complaint probably should have referred to, firstly, evidence (although the results of surveys,

objects, and documents, etc., collected by the victim (or, at least, those who consider themselves such), which could prove the involvement of their abuser in the act of which he was accused, were collected in an extra-procedural form, and, consequently, evidence at the time of their submission to employees there were no law enforcement agencies yet), and secondly, sheets of criminal proceedings (which was nonsense since criminal proceedings could not yet be initiated at the time of filing the complaint).

In addition, according to the provisions of the CPC of Ukraine (1960), the complaint necessarily contains little information about the abuser. However, it was objectively impossible to provide such information when a crime or other socially dangerous act was committed by a person who was previously unknown to the victim and, especially in conditions that exclude the possibility of further knowledge (for example, when a criminal offence was committed in complete darkness or in conditions when the victim could not recognise the attacker by other signs – by voice, smell, tactile sensations when the victim was unconscious at the time of the offence). Also, according to the provisions of the CPC of Ukraine (1960), any victim had to conduct a criminal qualification of what they had done. Proceeding from the fact that the average victim is a person who does not have a legal education, the necessary knowledge for this, then, surely, access to justice in such conditions is impossible.

The CPC of Ukraine (1960) also demanded that such a complaint (similar to the indictment) indicate circumstances that could mitigate the punishment of the alleged offender and the latter's arguments in their defence. Such a requirement created a situation when the victim, to file a complaint against their abuser, had to note that, for example, the latter committed a crime for the first time, was not previously brought to criminal or other types of legal liability, is positively characterised at the place of work, study, or residence, has a dependent pregnant wife and young children, has state awards, etc. Such a legislative requirement did not meet the basic requirements of morality and justice at all. In addition, it also went against the principle of dispositivity. According to this principle, the same body or the same person (from the standpoint of the law, it does not matter whether it is a private person, an employee of law enforcement, or human rights body) cannot be assigned radically opposite functions, in this case – the functions of prosecution and defense.

Since 2012, the situation on this issue has changed. After all, in the new CPC of Ukraine (2012), there is a single approach to all statements about criminal offences or other socially dangerous acts. A person who considers themselves a victim may inform a law enforcement officer in any written (or even oral) form about the committed act (Kaplina, 2024). The latter, if there is information in such an application about a committed crime, criminal offence or other socially dangerous act, is obliged to enter the data in the unified state register of pre-trial investigations and start proceedings.

The advantages of the CPC of Ukraine (2012) over the CPC of Ukraine (1960) in terms of better access to justice for a victim in private prosecution cases are not limited to this. Thus, until 2012, as a general rule, no pre-trial investigation was conducted in cases of this category. The legislator also provided for exceptions to this rule. This was possible, in particular, when such an act was committed by a minor or a person who, due to physical and/or mental disabilities, could not independently defend their interests or when the need for a pre-trial investigation was recognised as necessary (might not have been) by the court or prosecutor. With such legal regulation, the entire burden of collecting factual data that could be recognised as evidence fell on the shoulders of the victim. The situation at that time was nothing more than an actual denial of access to the court to the victim and frankly unfair because an ordinary private person never had (and as of 2024) the temporary, financial, intellectual (to conduct a proper investigation, special knowledge is required, which is acquired for months, or even years, in the course of special training), technical capabilities that law enforcement officers have. In addition, they cannot legally apply measures of physical coercion. Thus, the situation at that time, in which the victim in such acts, in fact, was deprived of the necessary assistance and assistance from the bodies conducting criminal proceedings, went against the relevant provisions of the "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power" (1985). Considering the above, in the CPC of Ukraine (2012), pre-trial investigation becomes mandatory in all proceedings without exception (including private prosecution), which should be considered a positive development.

Therewith, there are provisions in the CPC of Ukraine (2012) that raise a number of questions, both considering the logic of the approaches covered in it and from the standpoint of properly ensuring the right to a public and fair hearing of a case by an impartial and independent court. In particular, it is not clear that there is no provision in the current CPC of Ukraine (2012) that provides for the right of a prosecutor to start investigating analysed criminal offences in the absence of a victim's statement when they simply cannot defend their interests independently due to certain objective circumstances (in particular, a helpless state, or even death). The existing legal regulation in this regard is difficult to explain due to the fact that the prosecutor has the right to independently, on their own initiative, file claims in the framework of criminal proceedings in the interests of individuals who, due to limited legal capacity, incapacity, improper health, etc., cannot defend their own rights (Paragraph 12 of Part 2 of Article 36).

The lack of such powers of the prosecutor (the ability in exceptional cases to initiate such criminal proceedings without the application of a private person – the victim) leads to the fact that the interests of such a victim will, in fact, be ignored. In some cases, this results in a gross violation of the principle of completeness and correctness of criminal legal qualification (Navrotska, 2021). For example, an unqualified rape of an adult, capable person was committed. In the future, so that the victim does not submit a corresponding statement about the crime to the bodies conducting the criminal process (and those, in turn, do not start criminal proceedings against the actual culprit), the offender kills the victim.

There is a question of qualification of what has been done. As for the further deprivation of the life of the victim of rape, this murder was committed with the aim of concealing the rape. However, under the current legal regulation, it is impossible to qualify what was committed collectively as simple/unqualified rape – Part 1 of Article 115 of the CPC of Ukraine and as murder committed with the aim of concealing a previous crime – Paragraph 9 of Part 2 of Article 115 of the same CPC of Ukraine Code (2012). For such a criminal legal assessment, it is necessary that the previous (predicate)

act is also classified as a crime. However, one of the signs of a crime (along with illegality, guilt, and punishability) is the public danger of what was committed. It also means that a certain act prohibited by the CPC of Ukraine causes or creates a real threat of causing substantial damage to the object/objects of criminal legal protection. In the case of committing acts for which criminal proceedings are conducted in the form of a private prosecution, the victim independently determines (in cases provided for by law, their legal representative does this) whether they were harmed. This is also evident in the submission of a corresponding application to employees of the bodies conducting criminal proceedings. If, in the opinion of the victim, no harm has been caused to them, then there are no grounds for claiming that there is a public danger in the act of the offender. Therefore, it is impossible to say that in such a situation, there was a rape. Accordingly, the subsequent unlawful deprivation of life cannot be qualified as premeditated murder with the aim of concealing another crime.

As already mentioned, in cases of the analysed category, the prosecutor cannot initiate criminal proceedings on their own initiative. The question arises as to whether other persons, including private ones, have the appropriate powers. Notably, such persons have such a right since, according to the provisions of Part 6 of Article 55 of the current CPC of Ukraine (2012), if the victim dies or is in a state in which it is impossible for them to submit an application as a result of a criminal offence, then their family members/close relatives are recognised as victims at their request. Subsequently, already having the status of victims, such subjects can seek to bring the offender of a person close to them to justice in criminal proceedings. However, it is also possible that the victim was a single person who did not have anyone who, by virtue of the provisions of Paragraph 1 of Part 3 of the CPC of Ukraine (2012), could be attributed to close relatives/family members.

It is possible that a living, procedurally helpless, or deceased victim has relatives, but they are completely passive. For example, because they are completely indifferent to the fate of the victim; they do not believe in the possibility of a proper and effective investigation of the act committed against them, restoring justice, and defending the truth; because of the low level of legal culture, they do not even know that they have the opportunity to acquire the appropriate legal status to defend both their own interests and the interests of the deceased relative; they themselves can commit an act that led to the helplessness or death of their close relative/family member (or otherwise be involved in this act), and, therefore, be not just disinterested in a full-fledged investigation, but also, on the contrary, to have the opposite interest – in its "blocking".

In connection with the possibility of the above situations, it is necessary to identify whether such a situation corresponds to the actual interests of the helpless victim or the lifetime interests of the deceased victim (in particular, the interests of access to justice and fair punishment of the offender). In this regard, it is worth stating that this is not the case. However, there is a way out of this situation. In the previously existing code, a provision was provided to defend both public interests and the interests of the victim in such situations, allowing the prosecutor to independently initiate criminal proceedings on their own initiative, despite the absence of a corresponding appeal from the victim – Part 3 of Article 27 of the Criminal Procedural Code of Ukrainian SSR (1960). The current CPC of Ukraine (2012) completely unjustifiably and unreasonably deprived the prosecutor of such powers. Therewith, the legislator has every opportunity to consider positive previous experiences and provide for (in fact, to reproduce) such a norm in the new Criminal Procedural Code.

Notably, when researchers refer to access to justice, they traditionally consider access to justice for victims of a criminal offence (Wallat, 2019; Hubbard *et al.*, 2020). Therewith, the vast majority of researchers and practitioners rightly point out that other participants in criminal proceedings also have this right. This applies, in particular, to the opposite party to the criminal conflict – the suspect/accused (Shibiko & Dankevich, 2020).

Therewith, it is necessary to state that in cases of the analysed category, the right of the accused to access justice – in particular, the right to demand the continuation of a trial that has already begun – can be blocked by a person who has the status of a victim including the one who acts clearly in bad faith. After all, a situation is not excluded in which a subject who is not actually a victim and who, reliably realising this circumstance, submits an absolutely false statement about the alleged commission of a criminal offence against them, thus trying to "get even" with someone with whom they have developed a hostile relationship, thus slandering an absolutely innocent person.

Therewith, the false victim can assume that in the future, in the course of a proper investigation: a) such a clear lie will be exposed, all their false accusations will be refuted, and the innocence of the accused will undoubtedly be proved by the evidence available in the case, b) possibly, the real victim of their actions (who now has the status of an accused), will even raise the question of bringing the "victim" themselves to criminal responsibility for deliberately false reporting of the commission of a crime before law enforcement officers, according to the Criminal Code of Ukraine (2001) – (Article 383) and/or for deliberately false testimony (Article 384). It is necessary to state that, in fact, such a false victim is provided by the legislator with quite legal ways to "retreat". Thus, according to the provisions of the CPC of Ukraine (2012), the refusal of the victim from the charge (Part 4 of Article 26) or repeated failure to appear at the court session without valid reasons (Part 6 of Article 340 of the Criminal Procedure Code of Ukraine) leads to the unconditional closure of criminal proceedings.

It can be assumed that the accused (as already mentioned, can be a completely innocent person) categorically objects to this, emphasising that the closure of criminal proceedings on the specified (non-rehabilitating) grounds does not suit them, demanding a full continuation of the trial and passing a verdict based on its results: a) acquittal – if their innocence is proved, or b) accusatory – if it cannot be proved. Such an interest of the accused is quite understandable both from a moral and legal standpoint. Primarily, an innocent person has the right to expect not the closure of the proceedings on any basis (including non-rehabilitating ones) but on which they should be. The fact that a person has the status of an accused person is not an automatic indication that they are actually guilty. Any participant in criminal proceedings (the accused in particular) has the right to defend their own position in the process, regardless of the position and considerations of their procedural opponent. The fact

that the position of a person who has the status of a victim is crucial (since their refusal to charge or repeated failure to appear for non-valid reasons is an unconditional, mandatory basis for closing the proceedings), and the desire of the accused is completely ignored, seems to indicate a clear departure from the adversarial principle declared by the legislator (Criminal Procedural Code of Ukraine, 2012), according to which the parties enjoy equal procedural rights in proving the credibility of their position before the court. If someone who has the status of a victim (due to their refusal to charge or repeated failure to appear for non-valid reasons) drops out of the proceedings, then one of the representatives of the prosecution is still present – since now the participation of the prosecutor in any criminal proceedings (including cases of private prosecution) is mandatory. The prosecutor, as a champion of the rule of law, the one who must be objective and impartial, is obliged to establish the truth in the case and defend the legitimate interests of any participants in the process (and, if necessary, the one whom they accuse).

The fact that a person who has the status of a victim (and who may actually be a false victim) refuses to be charged or does not appear at the court session for non-valid reasons (the reason for this participant by virtue of the provisions of Part 3 of Article 140 does not mean that the truth in the proceedings cannot be established without them (Criminal Procedural Code of Ukraine, 2012). Surely, without their testimony and active participation in the trial, it will be much more difficult for the prosecutor, but it is not impossible because the testimony of an accused who categorically denies their guilt or any involvement in the act incriminated to them is also an independent source of evidence, and an equivalent source along with others (in particular, the incriminating testimony of someone who has the status of a victim). In addition, during the trial, a number of other evidence can be examined – physical evidence, expert opinions, witness statements, documents, on the basis of which it is possible to come to a reliable and indisputable conclusion that the accused could not have committed the act of which they are accused.

Therefore, to properly ensure the access of such an accused to justice, it is necessary to provide in the CPC of Ukraine (2012) a provision from which it would follow that even in the event of a refusal (active or passive – in the form of non-appearance) of a private prosecutor from the prosecution, the position of the accused themselves should be crucial. If the latter agrees to the closure of the proceedings on a non-rehabilitating basis, the proceedings are subject to closure. However, if they insist on continuing criminal proceedings in the general order, their position must be considered.

Access to justice in the conclusion of transactions in criminal proceedings. According to the provisions of the CPC of Ukraine (2012), everyone is guaranteed the right to a fair trial and a decision on the case by an impartial and independent court. In addition, everyone has the right to participate in the consideration of a case concerning their rights and obligations in a court of any level. Therewith, to ensure the rights and interests of the suspect or accused, the legislator established the principle of direct examination of evidence in criminal proceedings.

However, the provisions of Part 1 of Article 392 and Part 4 of Article 394 of the CPC of Ukraine (2012), which establish restrictions on the right to appeal against a verdict issued on the basis of a plea agreement, do not guarantee everyone a right to access justice. In this regard, it is appropriate to provide arguments to confirm this position. One of them is Article 14 of the International Covenant on Civil and Political Rights (1966), in particular, that "everyone who is convicted of any crime has the right to have their conviction and sentence reviewed by a higher court in accordance with the law". Therewith, in the decision of the ECHR in the case "Rostovtsev v. Ukraine" (2017), the court emphasises that any restrictions on the right to review contained in national legislation should, by analogy with the right of access to a court, covered by Article 6 (1) of the European Convention on Human Rights (1950), pursue a legitimate goal and not violate the very essence of this right.

Part 4 of Article 394 of the CPC of Ukraine (2012) defines a special group of persons who have the right to appeal the decision of the Court of First Instance on a plea agreement. Such persons include the prosecutor, the suspect/accused, their defence lawyer or representative, and solely on the grounds provided for by law. The accused, their defence lawyer or their representative may file an appeal under certain conditions: if the court imposes a more severe penalty than stipulated in the plea agreement, passes a sentence without the accused's consent to the punishment, or does not comply with the requirements provided for in parts 4, 6, 7 of Article 474 of the CPC of Ukraine, does not explain the consequences of the agreement. Conversely, a prosecutor may file an appeal in the following circumstances: if the court imposes a more lenient sentence than stipulated in the plea agreement or if the court approves an agreement in proceedings in which, in accordance with Part 4 of Article 469 of the CPC of Ukraine (2012), such an agreement cannot be concluded.

Given the established restrictions on the grounds of appeal and the persons entitled to appeal against such decisions, prosecutors practice plea agreements in which other persons are referred to as persons who took part in the commission of a criminal offence related to the actions of a suspect/accused. This refers to the actual accomplices of the suspect/accused, who, however, are not parties to the concluded transaction.

Thus, prosecutors artificially create a precedent for the guilt of these individuals, although they were not a party to the transaction. Their guilt is not proved by any evidence other than the testimony of the suspect/accused. The "entry" into the agreement, and subsequently into the verdict on the basis of the agreement, of any person whose guilt is not confirmed by evidence but who is indicated as an accomplice to the commission of a criminal offence undoubtedly violates their rights, freedoms, and interests. The issue of ensuring the rights of these individuals remains inconsistent in judicial practice. Some courts consider that such decisions can be appealed using the provisions of the Ukrainian Constitution, while others limit themselves only to the provisions of the CPC of Ukraine (2012), which define the categories of persons entitled to file appeals. In the decision of the Supreme Court of Ukraine of 03.03.2016 in the Case No. 5-347ks-15 (2016), the court stated that the absence of other persons in the exhaustive list of subjects of appeal provided for in Article 394 is not an obstacle to access to justice and appeal to a higher court, which is provided for in Part 2 of Article 24 of the CPC of Ukraine (2012).

Such a decision is correct, but in this case, the court (and not the legislator) defends the rights, freedoms, and

interests of persons affected by the verdict, acts as a lawmaker, and assumes functions that are not typical of it. Therefore, it seems appropriate to supplement the CPC of Ukraine with provisions that would allow other persons whose rights, freedoms, and interests are affected by a verdict adopted on the basis of a plea agreement to appeal such a verdict. However, given the absence of a direct indication in Article 470 of the CPC of Ukraine (2012) on the need to prove the guilt of a suspect/accused, prosecutors do not establish the circumstances provided for in Article 91 that are subject to proof but conclude agreements in which third parties are indicated. These persons mentioned in the texts of the agreements are allegedly involved in the commission of a crime to support the proven guilt of the suspect/accused.

I. Kanyuka (2015) proposed to supplement the current CPC of Ukraine (2012) with a new article 475-1, "Meaning of information contained in a plea agreement", with the following content to strengthen procedural guarantees for those who participate in criminal proceedings: "information specified by the parties in a plea agreement approved by a court verdict in relation to any circumstances that relate to the essence of suspicion, accusation, has no prejudicial importance for the court or for the investigator or prosecutor in other criminal proceedings". Such a proposal deserves full support since the outlined norm will serve to eliminate illegal criminal prosecution of third parties.

Along with this, in practice, there are cases when the prosecutor enters into codes, and the court approves a plea agreement concluded with a gross violation of the right to defence. Mandatory participation of a defence lawyer in cases of this category is one of the important guarantees of respect for the rights, freedoms, and interests of the suspect/accused. Despite the provisions of Paragraph 9 of Part 2 of Article 52 of the CPC of Ukraine (2012) on the mandatory participation of a defence lawyer in plea agreements, prosecutors do not always comply with this requirement. For example, in the Case No. 748/1039/20, the Chernihiv District Court of the Chernihiv region, by its decision of 01.07.2020, approved an agreement between the prosecutor and the suspect, which was concluded without the participation of a lawyer (Decision of the Chernihiv District Court..., 2020). This was allowed because the suspect did not submit a request for the participation of a defence lawyer, did not object to the consideration of the case without the participation of a defence lawyer, and was fully aware of their rights and the consequences of the agreement concluded. The court motivated its decision by the absence of grounds for refusal under Part 7 of Article 474 of the CPC of Ukraine (2012). Subsequently, a higher-level prosecutor appealed against this verdict on appeal. However, the Court of Appeal rejected the appeal, citing that such an appeal was contrary to the provisions set out in Paragraph 2 of Part 4 of Article 394 of the CPC of Ukraine (2012). Ultimately, the legislator restricted the right of the prosecutor to appeal against sentences concluded on the basis of agreements, and there are no grounds when the verdict can be appealed in this case. Notably, such a court decision is subject to cancellation in any case because Paragraph 4 of Part 2 of Article 412 of the CPC of Ukraine (2012) provides that the decision is subject to cancellation if it is made in the absence of a defender if their presence is mandatory. However, in such a case, the legislator does not grant the right to appeal against the verdict adopted on the basis of a plea agreement, either to the suspect/accused or to a higher prosecutor, who must ensure the protection of the rights of participants in criminal proceedings. Thus, the suspect/accused is deprived of the right of access to justice.

A plea agreement saves time and resources, but there are also drawbacks that are worth paying attention to. These include the potential for abuse of the judicial system, violation of legal and constitutional principles, creating conditions for prosecutorial and judicial arbitrariness, and potential conflicts of interest between defence lawyers and accused persons. In addition, it can lead to a reduction in the punishment of offenders and increase the likelihood of passing wrongful sentences. Thus, before implementing such a mechanism, it is necessary to conduct a comprehensive assessment of its possible consequences and formulate a clear legal framework to prevent potential abuses and legislative gaps (Boreiko, 2022).

Based on an analysis of the legislation of individual European countries regarding the legal regulation of appeals against sentences based on agreements, it was determined that the Criminal Procedure Code of Portugal (1987) noted that the subject of a plea agreement, among other things, is the refusal of the accused, their defence lawyer and prosecutor from the right to appeal a court decision based on a plea agreement, if the court recognised the agreement in full. Therewith, the court verifies whether the accused understands the consequences of the agreement when approving a plea agreement, in particular, that it waives the right to a trial and that they will not be able to appeal a court decision made on the basis of the agreement. Thus, the Portuguese legislator also restricted the right of individuals to appeal a sentence on the basis of agreements, considering specific grounds. According to Article 444 of the Criminal Procedure Code of the Italian Republic (1988), a plea agreement results in the accused refusing to challenge the charge in exchange for a reduced sentence by imposing a less severe penalty than is provided for the crime committed, or reducing the maximum amount (term) of a fine or imprisonment by one-third. However, Sweden and Iceland rejected the introduction of non-sensuous methods in criminal proceedings (Ervo, 2014). This decision is due to the fact that the form of criminal investigation in these countries does not correspond to national procedural traditions, in particular, the absence of mandatory judicial proceedings and the inadmissibility of immunities from prosecution.

Thus, each state independently decides whether to apply the institution of plea agreements. Therewith, an important factor in this choice is the desire to protect participants in criminal proceedings from abuse in its application and ensure the right to a fair and impartial consideration of the case by the court. It seems that one obstacle to exercising such a right is the restriction of the prosecutor's right to appeal against a verdict based on a plea agreement.

Conclusions

The above gives grounds for the following conclusions. Public and fair consideration of a case by an impartial and independent court as one of the elements of accessible justice is a complex and multifaceted phenomenon with a wide variety of manifestations. Therefore, it will be relevant for further research for quite a long time. The undoubted advantage of the new CPC of Ukraine 2012 in comparison with the previously existing CPC of Ukraine 1960 in matters of access

to justice for the victim of a criminal offence in the case of acts committed in the form of private prosecution is the introduction of mandatory pre-trial investigation and the absence of strict requirements for the victim's application-the only reason to start such criminal proceedings. It is argued that the Ukrainian legislator's approach is fully consistent with the relevant practice of the European Court of Human Rights. Therewith, the lack of the prosecutor's authority to independently, on their own initiative, conduct in exceptional cases criminal prosecution of an offender who has committed acts belonging to the category of private prosecution cases sometimes leads to incompleteness and inaccuracy of the criminal legal qualification of the committed, to ignoring the legitimate interests of a helpless or even deceased victim to access justice to defend their right to bring the offender to criminal or other types of legal liability. Legal, but frankly unfair and contrary to the idea of free access to justice, is the deprivation by the Ukrainian legislator of the accused in private prosecution cases of the right to demand the continuation of the trial and the adoption of an acquittal (and not to be content with the closure of criminal proceedings on non-rehabilitative grounds) in a situation in which a person who has the status of a victim actively or passively refused to charge, but the accused considers themselves completely innocent, not involved in the commission of the act incriminated to them.

Considering the principle of the rule of law, the institution of plea agreements requires strengthening guarantees for the protection of the rights and freedoms of participants in criminal proceedings and introducing a more advanced procedure for its consideration by the court. Restriction of the right to appeal a court verdict on the basis of an agreement on the admission of guilt of accomplices in the allocated proceedings, or persons indicated by the accused as actual accomplices, grossly violates the rights and legitimate interests of these persons, does not contribute to the effective performance of the tasks of criminal proceedings and does not ensure proper access to justice. Therefore, it is proposed to provide for provisions in Part 4 of Article 394 of the CPC of Ukraine that would grant the right to both the highest-level prosecutor and any persons whose rights and interests are violated by the plea agreement the right to appeal the verdict adopted on the basis of the agreement.

Promising areas of future research in the subject are the formation of new standpoints and concepts in the course of the analysis of the right of access to justice of obviously "weaker" participants in criminal proceedings – those who need to apply additional procedural guarantees: persons in respect of whom the issue of applying compulsory measures of an educational or medical/psychiatric nature is being resolved.

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Conflict of interest

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Публічний та справедливий розгляд справи безстороннім та незалежним судом у кримінальному провадженні: європейські стандарти та українські реалії

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Анотація. Доступне правосуддя, публічний та справедливий розгляд справи є важливим досягненням людства, однак законодавством України забезпечені далеко не усі можливості що здатні забезпечити реальні можливості для учасників судового процесу впливати на хід досудового розслідування та судового розгляду, що актуалізує дослідження тематики. Метою статті був комплексний аналіз та узагальнення різних аспектів реалізації приватними учасниками кримінального судочинства права на справедливий та безсторонній розгляд справи судом. Дослідження здійснено на основі ряду загальнонаукових методів та асинхронного порівняльного аналізу раніше та нині діючого кримінального процесуального законодавства та практики України, низки міжнародних актів, актів рекомендаційного характеру, прецедентної практики Європейського суду з прав людини. Аналіз українського кримінального процесуального законодавства з огляду на дотримання у ньому положення європейських стандартів доступу до правосуддя, дозволив констатувати, що в цілому ці стандарти дотримані, а інколи – навіть перевершені. Водночас, стосовно деяких особливих порядків кримінального провадження – а саме проваджень на підставі угод та проваджень у справах приватного обвинувачення – існують певні упущення й недопрацювання вітчизняного законодавця. Такі недоліки безпідставно блокують та унеможливлюють реальне звернення до суду як обох сторін кримінального конфлікту: і постраждалого (чи того, хто таким себе вважає), і підозрюваного /обвинуваченого, так й осіб, котрі не є сторонами конкретного кримінального провадження, проте інтереси яких напряму зачіпаються прийнятим судом рішення. Стверджується, що проблеми, котрі стосуються реалізації реального доступу до правосуддя у кримінальних провадженнях в Україні, мають чимало недостатньо досліджених або й доволі дискусійних теоретичних аспектів, правове регулювання певних положень національним правотворцем далеке від загальновизнаних світових та європейських стандартів і правил, недосконалою є й відповідна правозастосовна практика. Водночас констатовано, що окремі правозастосовні, законотворчі та теоретичні проблеми усе ж мають дієві варіанти вирішення. Міркування та висновки, викладені у статті, можуть бути використані законодавцем при внесенні змін та доповнень до окремих нормативно–правових актів, можуть бути корисними як приватним особами, так і працівникам органів кримінальної юстиції

Ключові слова: доступ до правосуддя; європейські гарантії; національні стандарти; кримінальне провадження; справи приватного обвинувачення; угоди про визнання винуватості

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Possibilities of using artificial intelligence and natural language processing to analyse legal norms and interpret them

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Abstract. The study aaddressed the possibilities of using information technology and natural language in the study of legal norms. The study aimed to develop methods for using artificial intelligence and natural language processing to analyse jurisprudence. To achieve this goal, automatic strategies were created to recognise the main topics in legal texts, identify key legal concepts and analyse the structure of documents. The results of the study included an analysis of existing methods of using technology and natural language to analyse legal norms. The methods used included machine and deep learning, syntactic and semantic analysis, an automated classification system, relative analytics, and decision prediction. In addition, new methods of analysing legal texts based on artificial intelligence and natural language processing were introduced. These methods included the use of a thematic model that automatically identifies the main themes in legal texts, as well as automatic detection of legal concepts, which identifies key concepts. In addition, neural networks were used to analyse the structure of legal documents, which allows for more accurate recognition and analysis of various structural elements in documents. Automatic text generation based on legal information and ways to classify legal texts was also introduced. Thus, the main results were the automation of the process of analysing and understanding legal texts, an increase in the efficiency and accuracy of identifying thematic patterns and key legal concepts, and improved accessibility and speed of legal information processing. The results obtained indicate a great potential for the use of technological tools in jurisprudence, which can significantly improve the quality and accessibility of legal services, contributing to more efficient resolution of legal issues

Keywords: information technology; machine learning; analytical methods; legal standards; linguistic computing; interpretation of legal norms; legal technique

Introduction

The scientific community faces a problem in analysing legal norms due to the growing volume of legislation and the need for prompt access to it. The need to adapt traditional methods of analysis to the requirements and the lack of specialised techniques necessitate new approaches and technologies. There is an urgent need to create and evaluate methods for using artificial intelligence (AI) and natural language processing (NLP) for legal analysis to solve these problems and improve the quality of legal document analysis. AI has been making significant progress in recent years, finding wide application in various fields, including law (Striltsiv & Fedorenko, 2022). However, for AI to be used successfully in the legal sector, specialised methods and algorithms need to be developed that consider the specifics of legal texts and user requirements. NLP is a key technology that automates the comprehension and analysis of texts from various sources, facilitating the efficient processing of large amounts of textual information. Thus, an understanding of the basic concepts of AI and NLP is important for further presentation of the research methods and results in the context of legal norms analysis.

For a better understanding of this topic, it is worth referring to the research already conducted in this area. For example, analysing the development of legal regulation of AI, O.V. Korvat (2023) identified the need for preventive measures to reduce the risks of its use in Ukraine. She emphasised the need for a dual purpose of development and risk protection policies, establishing liability for harm and improving procedures for proving harm. V. Bohomia and A. Hudz (2023) examined the current state and prospects of AI use, including its development, types, and applications in various industries. They emphasised that the use of AI raises ethical, legal and social issues that require attention.

T. Yarovoy (2023) studied the use of AI in public administration, identified the benefits of process automation and

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improved interaction with the public, and identified risks, including ethical issues and threats to security and privacy. K. Chałubińska-Jentkiewicz and M. Nowikowska (2022) analysed the legislation on personal data protection in the context of the development of the NLP and to identify legal barriers. The results highlighted a conflict of interest between data protection and the development of this technology, as well as shortcomings in the relevant legislation.

In addition, G. Alparslan (2024) assessed global legal norms in digitalisation and AI. The results showed the interconnection between digitalisation, globalisation and AI, but also revealed problems due to shortcomings in global legal norms. B.K. Mishra and R.K. Agrawal (2019) addressed NLP, AI and related areas, analysing theory and applications in computational information models. The research included a study of the latest technologies, challenges and achievements in these areas, which has become a useful resource for professionals.

In turn, S. Srivastava *et al.* (2024) addressed the possibilities of using machine learning and AI in the processing of advanced materials. They conclude that with the growth of data and the development of analytical methods, these technologies can be used to develop new materials and optimise production processes, but challenges such as data processing and the choice of algorithms arise. A. Iorliam and J. Ingio (2024) presented a live comparative analysis of certain AI tools, which showed that they have numerous advantages. The authors also explored the transformative impact of generative AI in the NLP, focusing on its integration with search engines, privacy issues, and ethical implications.

Moreover, P.M. Mah (2022) attempted to create a clustered AI and NLP system in which rich content is extracted using parts of speech and then classified into an understandable dataset. The author emphasised that the challenge is the lack of unique systems with standardised processes and procedures for AI and NLP in different systems to support the healthcare sector. Similar to the previous researcher, V. Božić (2023) analysed the role of AI and NLP in the medical field. He emphasised that one of the AI methods is NLP, which allows hospitals to better use the wealth of textual medical data that is often underutilised.

Therefore, this study focuses on the methods of applying AI and NLP to legal issues. This goal addresses the issue of effective use of AI and ML technologies in the field of law, aimed at improving the analysis and understanding of legal norms and processes. The tasks included analysing the existing ways of applying AI and NLP in the legal sector and assessing their effectiveness.

Materials and methods

The modelling method was used to create new ways of using natural language and technology in the legal field. The author has constructed diagrams illustrating various aspects of the analysis and processing of legal information and a table of practical applications of the developed methods. Thus, this method was used as a means of reflecting the process of text analysis using the thematic model method, where the main themes in legal texts were automatically identified. He demonstrated how the text of a legal document was run through machine learning algorithms that defined legal concepts.

The descriptive research method used in this study played a key role in providing an analytical and systematic description of the necessary information. It was designed to provide a detailed description of the objective data that was important for the study. The analytical component of the study was to analyse various methods used in the application of AI and NLP. This identified potential areas for further research, enabling a deeper understanding of the approaches used and pointing to opportunities for improvement. Subsequently, the main aspects that should have been addressed in this study were identified to achieve more accurate and objective results.

In addition, a comparative analysis of the methods of using AI and NLP technologies to analyse legal texts was carried out. This method was used to identify both differences and similarities in approaches to text processing. The study also included a comparison of the results with previous research in this area. This assessed the uniqueness and importance of the work carried out in the context of the development of the scientific community and practical applications in the field of law. Thus, this aspect of the study has expanded the understanding of the possibilities and prospects of using technology in the field of law, opening new horizons for further research and development of legal science.

It also systematised the various technological and methodological approaches that have already been applied in this area. Methods such as deep learning and machine learning, semantic and syntactic analysis, decision prediction, relative analytics, and automated classification systems are considered. Each of these methods has been analysed in terms of its application in legal norms. To systematise the results, a table comparing the methods of applying AI and NLP in legislation was created, which reflects the advantages and disadvantages of each method.

Results

Assessment of modern methods of using technology and natural language in legislation. To develop methods for using AI and NLP in legislation, an analysis of existing methods should be conducted. One such method is machine learning, which is used to analyse large amounts of text and identify legislative patterns. This method can be used to automatically recognise keywords and phrases in the text of legislative documents and highlight their important aspects. Lex Machina (the United States of America) uses machine learning to analyse massive amounts of legal data, including court decisions and documents (AI in litigation…, 2023). It assists lawyers and legal professionals find key information faster and more efficiently. There is also a syntactic analysis that recognises the grammatical structure of sentences and their relationships. This method can be useful for establishing links between different legal provisions and their interaction. ROSS Intelligence (USA) uses parsing to automatically analyse the grammatical structure of legislative texts and establish links between different provisions of the law (A visual guide…, n.d.).

Semantic analysis determines the meaning of a text and determines its context. This method can be useful for identifying specific concepts used in legislation and their interaction with other concepts. International Business Machines (IBM) Watson Legal (USA) uses semantic analysis to understand the meaning of the text of legislative documents and determine their context (IBM Watson Natural..., n.d.). This helps lawyers find the information they need faster and analyse it more efficiently. Deep learning is used to solve complex legal text analysis tasks, such as classification or

segmentation, using deep neural networks (Sezonov & Sezonova, 2022). This method automatically detects and analyses complex relationships between words and concepts in large volumes of text, which processes legal information quickly and accurately. Pekat Vision (Singapore) uses deep learning to automatically recognise and analyse complex relationships between words and concepts in legal texts, helping lawyers make informed decisions based on reliable data (Stand-alone Software, n.d.). In turn, an automated classification system is used to classify legal documents into various categories, such as document type, subject matter, or scope. It can use machine learning techniques to train classification models based on a set of input data. LegalSifter (USA) uses this system to automatically classify legal documents into different categories, such as document type or topic, which helps organise and catalogue legal information (A first-of-its-kind factory, n.d.).

Relative analytics is used to analyse the relative relationships between legal provisions, their interpretations and court decisions. It can use NLP algorithms to automatically detect links and patterns in the text of legal documents. Ravel Law (USA) uses relative analytics to analyse the relationship between court decisions and their interpretations (Lambert, 2016). It helps lawyers find precedents and predict the outcome of court cases. It is worth addressing the decision prediction method used to predict the outcome of legal processes, such as the resolution of court cases or responses to client requests. It can use machine learning models to analyse historical data and predict future events. Premonition (USA) uses decision prediction methods to analyse historical data and predict future events in the field of law (Premonition: Artificial Intelligence..., 2017). For instance, they analyse the outcomes of court cases to predict the outcome of future proceedings. These methods help automate and improve the analysis of legal norms using AI and NLP, which opens up new opportunities for legal practice and research. However, each of these methods has its advantages and disadvantages that require careful consideration (Table 1).

Table 1. Comparison of AI and NLP methods for analysing legal texts

Method	Advantages	Limitations
Machine learning	Automation of the analysis of large amounts of text. Identification of legislative models. Automatic recognition of keywords and phrases.	Requires a large amount of data to train the model. Requires complex computing resources. Possibility of misinterpreting the context and lack of understanding of the meaning of the text.
Syntactic analysis	Establishes links between different legal provisions and their interactions. Recognition of the grammatical structure of sentences and their relationships.	Possibility of interpreting incorrect syntactic relationships. Limited recognition of complex syntactic structures.
Semantic analysis	Identification of the meaning of a text and determining its context. Identification of specific concepts in legislation and their interaction with other concepts.	Requires large computing resources for accurate analysis. Possibility of inaccuracies in understanding the meaning of the text and determining the context.
Deep learning	Solving complex analysis problems. Automated recognition of legislative patterns.	Requires a large amount of data to train the model. Requires significant computing resources.
Automated classification system	Classification of legal documents into different categories. Process automation.	The need for accurate model training. Heterogeneity of classification with unequal documents.
Relative analytics	Identification of interrelationships between legal norms. Automatic analytics.	Difficulty in determining the relationship between legal documents. Requires a precise definition of concepts.
Predicting decisions	Prediction of the outcome of legal processes. Using historical data for forecasting.	Dependence of results on data accuracy and volume. The need to constantly update models.

Source: compiled by the author

A comparative analysis of modern methods of using technology and natural language in legislation allows provides more detail on their effectiveness and limitations. The first method, machine learning, can automatically recognise keywords and phrases and analyse large amounts of text to help identify legislative patterns. Although it provides effective keyword recognition, it requires a large amount of data to train, as well as complex computing resources. Parsing helps to establish links between legislative provisions, but can also interpret incorrect syntactic relationships and has limited ability to recognise complex syntactic structures. Semantic analysis can understand the meaning of a text and determine its context but requires large computing resources for accurate analysis. Thus, these methods help to establish the grammatical structure of the text and understand its meaning, but they may require significant computational resources. Deep learning can be employed to solve complex tasks of analysing legal texts and automatically detect and analyse complex relationships between words and concepts. However, this method requires a large amount of data and computing resources. Moreover, the automated classification system simplifies the process of classifying documents. However, it is worth noting the heterogeneity of this system's classification when documents are not identical and the need for accurate model training (Palekha & Alieksienko, 2023).

Relative analytics can indicate the interaction between legal norms and automated analytics, but it is difficult to determine their context within legal documents. Decision prediction can predict the outcome of legal processes, but it requires constant model updates and depends on the accuracy and volume of data. In other words, these methods can be used to identify relationships and predict outcomes, but require precise definitions and extensive data for training. Thus, each of these methods has its advantages and disadvantages, which should be addressed when using them in legal practice and research.

Creating new methods for applying AI and NLP to analyse legal issues. As AI and NLP technologies improve,

new opportunities are emerging to improve the analysis and understanding of legal rules and texts. Modern ways of using these technologies allow for efficient and accurate analysis of legal information, opening up broad prospects for the development of new methods. However, new methods need to be developed to provide better analysis and better understanding of legal norms and texts using AI and NLP. For example, the thematic model method can be suggested (Fig. 1). This method is based on the idea of topic modelling, which automatically identifies the main topics present in the text and the relevance of each document to these topics. For legal analysis, this method can help identify the main categories of legislative documents and their content.

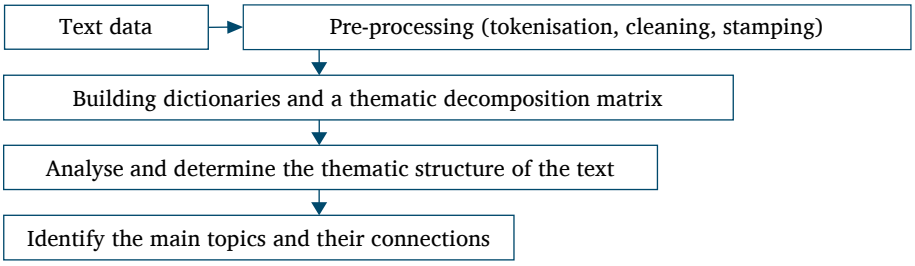

Figure 1. Thematic model method

Source: compiled by the author

This diagram shows the process of analysing a text using the thematic model method. Starting with the input text data, pre-processing such as tokenisation, redundant character removal and stemming is performed first. Then, a dictionary and a topic decomposition matrix are built using the Dirichlet Latent Placement algorithm. After that, the text is analysed, and the thematic structure is determined. The last step is to identify the main themes and their connections in the text.

The thematic model method can be used in the analysis of legal norms and texts to automatically identify the main themes present in legislative documents. It can be used to classify legislation into different categories, identify interrelationships between different norms, as well as identify various thematic aspects of a legal text that may be important for further analysis and interpretation. For example, when reviewing the Law of Ukraine No. 2297-VI "On Personal Data Protection" (2010), the thematic model method can automatically identify the main topics, such as personal data processing, rights and obligations of data subjects, liability for violation of the law, and others. By predicting the analysis of this law with the help of AI, can expect faster and more objective identification of key aspects, which provide an explanation of the legal act and develop strategies to ensure its implementation.

Automatic legal concept detection is a method that uses machine learning algorithms to identify and classify legal terms and concepts in the text of legal documents (Fig. 2). It helps understand the key concepts and terms used in the legislation. The resulting diagram shows how the text of a legal document is passed through machine learning algorithms that detect and classify legal terms and concepts using NLP. The result of the analysis is a list of key concepts and terms used in the legislation.

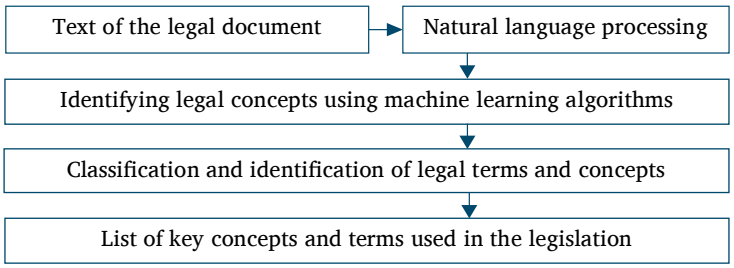

Figure 2. Method for automatic detection of legal concepts

Source: compiled by the author

The method of automatic detection of legal concepts can be successfully used in various areas of legal research and practice. In judicial practice, this method can be used to analyse the texts of court decisions in a particular area of law. AI analysis can automatically identify key terms and concepts contained in the text of the Constitution of Ukraine (1996). For instance, Article 3 of the Constitution of Ukraine states: "A person, his or her life and health, honour and dignity, inviolability and security are the highest social value. The precepts on the inviolability of human life, human rights and freedoms, and human dignity are enshrined in this Constitution and recognised as binding on the entire territory of Ukraine". By analysing this passage of text using AI methods, key concepts can be automatically identified and linked to the relevant articles and subparagraphs of the Constitution of Ukraine. Predicting AI analysis using this method, can expect to identify and systematise the identified key concepts in the context of the Constitution's articles, which will facilitate the understanding and interpretation of legal reality.

Furthermore, the neural network method for document structure analysis uses deep neural networks to recognise

and analyse the structure of legal documents, including headings, sections, subheadings and other structural elements (Fig. 3). This automates the process of understanding and analysing large amounts of text.

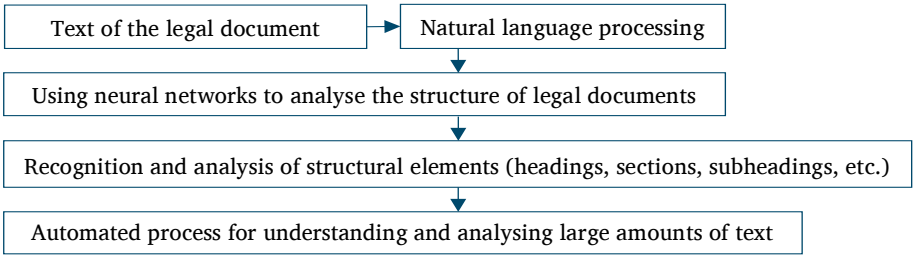

Figure 3. Neural network method
Source: compiled by the author

This diagram shows how the text of a legal document will be passed through the NLP to be analysed by a neural network method for structure analysis. Neural networks recognise structural elements, such as headings, sections, subheadings, and others, which automates the process of understanding and analysing large amounts of text.

The neural network method for analysing the structure of documents can be successfully used in the legal field for various purposes. In the field of legal research, this method can be used to automatically analyse the structure of laws. For example, by analysing the structure of the Criminal Code of Ukraine (2001) using neural networks, it is possible to automatically identify various structural elements of the text, such as sections, articles, paragraphs and subparagraphs. This will quickly find and recognise the necessary legal provisions, simplifying the processing of large volumes of legal information. This method can be expected to automatically determine the structure of the Criminal Code of Ukraine, which will find and analyse specific legal provisions faster when solving legal issues. Legal text generation is a method that uses text generation models based on legal data to automatically generate reports, documents, or analyses (Fig. 4). It can generate text that matches certain legal criteria or templates, which can significantly increase the productivity and speed of legal information processing.

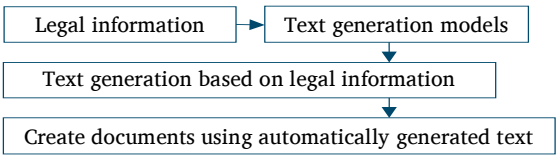

Figure 4. Text generation method
Source: compiled by the author

The diagram shows the process of generating text from legal information using text generation models. The first step is to present the legal information that is fed into the text generation models. Text generation models then convert this information into appropriate text that meets certain legal criteria or templates. Lastly, this automatically generated text can be used to create reports, documents or analyses.

The method of generating text based on legal information can be used in various areas of legal work. In law firms, this method can be used to automatically create various legal documents, such as contracts, statements or agreements, using appropriate legal templates. For example, in the case of the Civil Code of Ukraine (2003), using the text generation method, it is possible to automatically generate various standard legal documents, such as purchase and sale, lease, hire agreements, etc. The system will address the relevant civil law provisions and use them in the appropriate context. Thus, should expect fast and automated creation of various legal documents following the relevant regulations, which will facilitate the work with legal documents and speed up the decision-making process based on legal information. In addition, the method of classifying legal texts uses classification algorithms to automatically categorise and sort legal texts by type, topic, or other parameters (Fig. 5). It organises large amounts of legal information and facilitates access to it for further analysis and use.

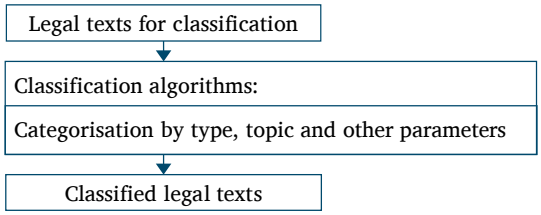

Figure 5. Method of classification of legal texts
Source: compiled by the author

The resulting scheme represents the process of classifying legal texts using classification algorithms. The input is legal texts that need to be classified. Classification algorithms automatically categorise these texts according to various parameters, such as document type, topic, or other characteristics. After processing, each text receives a specific tag or label indicating its classification. The method of classification of legal texts can be used in various aspects of legal activity. In law firms, this method can help organise large volumes of legal documentation by automatically categorising documents by type, topic or other parameters. It is worth mentioning the Law of Ukraine No. 2939-VI "On Access to Public Information" (2011). Using the method of classification of legal texts, it is possible to automatically categorise various aspects of this law, such as procedures for obtaining public information, obligations of public authorities to provide it, restrictions on access to information, etc. Using this method for AI analysis, it is possible to automatically classify various provisions of this law into different categories, which will facilitate the organisation and quick access to the necessary legal information for non-government organisations, journalists and citizens in general.

For a better understanding of these methods, examples of their practical application are listed in Table 2. The developed methods reflect new approaches to the analysis of jurisprudence that address certain limitations of existing methods. The topic model and automatic detection of legal concepts help to automate the process of identifying topic patterns and legal concepts in texts, which would previously have required a lot of human involvement and time. Neural networks for document structure analysis provide more accurate recognition and analysis of the structure of legal documents compared to traditional methods of parsing.

Table 2. Practical applications of the developed methods

Method	Practical applications
Thematic model	Automated categorisation of legal documents by topic and subtopic. Identification of the main thematic areas in legal documentation for quick search and analysis. Creation of recommendation systems for lawyers and attorneys based on the identified topics.
Automatic detection of legal concepts	Automatic highlighting and definition of key terms and concepts in the text of legal documents. Analysing the structure and relationships between different concepts to support decision-making.
Neural networks for analysing document structure	Automatic highlighting and signing of structural elements in legal documents to facilitate their understanding and navigation. Development of systems for automatic analysis and recognition of structural elements for legal portals or databases.
Text generation based on legal information	Automatic generation of template documents such as applications, motions, or decisions based on legal data. Development of systems for automatic analysis of large amounts of text to highlight key information elements.
Methods of classification of legal texts	Creation of systems for automatic sorting and indexing of legal documents for easy access and search. Automatic categorisation of legal texts by their type, subject matter or other parameters for further analysis and use.

Source: compiled by the author

Text generation from legal information opens the possibility of automatically generating texts based on legal data, which helps to quickly create and analyse various legal documents. The classification of legal texts provides more accuracy in the classification of text data by their legal focus, which simplifies the search and analysis of the necessary legal information. These methods significantly improve the efficiency and accuracy of legal analysis compared to traditional methods, making them an important tool in legal research and practice.

Prospects for the introduction of technological tools and natural language in the legal sphere. The prospects for the introduction of technological tools and NLP in the legal field may prove to be decisive for the future of jurisprudence. New methods developed based on AI and NLP offer significant opportunities to improve the analysis and interpretation of legal provisions. The use of AI and ML technologies in the legal sector can significantly increase the efficiency of processing large volumes of documents and identifying key concepts, facilitating quick access to legal information and reducing the risk of errors in analysis.

One of the main prospects for the introduction of these technologies is to increase the efficiency and accuracy of legal text analysis. AI can help automate the process of analysing large volumes of documents and identifying key concepts and links between them. This can significantly increase the speed of processing legal information and reduce the likelihood of human error. At the same time, the use of AI in law can help automate the process of analysing various types of legal documents, including court decisions, legislative acts, and legal precedents (Cherniavskyi *et al.*, 2022). This will not only increase the speed of document processing but also improve the quality of analysis, as AI can identify and analyse various aspects of legal texts faster and more accurately. In addition, new methods can lead to a revolution in the search and analysis of legal information. The use of AI and NLP technologies can create powerful tools for searching for precedents, analysing case law and predicting decisions based on historical data (Sanzharovskyi & Yurchyshyn, 2023). This perspective opens great opportunities for improving the processes of searching and analysing legal information, which can greatly facilitate the work of lawyers and researchers in identifying links between different legal documents and understanding their impact on court decisions and legal norms.

The developed methods can also become the basis for the development of innovative legal systems that will provide faster and more efficient access to legal information for citizens and professionals. They can help avoid unnecessary formalities and reduce the time required to resolve legal issues. This approach will increase the accessibility of legal services and the development of jurisprudence both nationally and internationally. However, along with the prospects associated with the introduction of new technologies in the legal sphere, there are also certain challenges and limitations. Some of them include challenges of adapting technologies to the specifics of legal texts, privacy and data protection issues, and the possibility of ethical issues arising from the automation of decision-making processes (Polishchuk, 2024). For the successful implementation of these technologies, it is necessary to address these challenges and develop effective strategies for interaction between humans and AI in the legal environment.

In general, the introduction of technological tools and NLP in the legal sector can significantly improve the quality and accessibility of legal services by providing faster and more efficient access to the necessary information for citizens and professionals. This will avoid unnecessary formalities and reduce the time required to resolve legal issues, which will open up new opportunities to improve public services and increase the level of trust in the legal system as a whole. At the same time, a more effective analysis of legal norms and processes caused by the use of modern technologies will contribute to the development of jurisprudence, helping to strengthen the rule of law in society.

Discussion

The results of this study open up new perspectives for the use of information technology and NLP in legal research. This work has a substantial role in the development of this field, as it expands the understanding of how technology can be used to analyse legal norms and texts. It identifies the potential benefits and challenges associated with the use of AI and NLP in legal practice. For a better understanding of this topic, it is worth considering other studies in this area, which will help to get a complete picture of the potential and possibilities of using AI and NLP technologies in the field of law.

This paper examines how AI and NLP technologies contribute to a better understanding and analysis of legal information and provides some results that demonstrate the effectiveness of these technologies in this area. Compared to the study of S. Mecaj (2022), where the author concluded that it is necessary to create an adequate legislative provision on AI following the growing use of this technology in various fields, this study has identified specific opportunities for using AI and NLP to analyse legal norms. On the other hand, R. Rohan Singh and P.V. Dhanush (2024) identified promising areas for the development of quadrupedal artificial intelligence assistants, in particular, to improve their emotional intelligence by combining NLP and image processing. In addition, this work can complement the study by Y. Ma (2023), which considered the ethical issues of using NLP. In comparison, both studies identified the importance of understanding and preventing ethical issues in this context. However, this study has provided specific opportunities to use AI and NLP for legal analysis, which is a specific contribution to this field. This study, similar to one of Y. Chen *et al.* (2024), which revealed the impact of AI on NLP, in particular in the context of legal analysis. However, the difference is that it focused on the specific application of AI and NLP in the field of law. In turn, the study has shown that the use of AI and NLP technologies can be used for effective analysis and understanding of the complexity of legal norms and texts, opening new opportunities for their application in the field of law. Compared to the study by S. Kumar *et al.* (2023), which examined smart city intelligent systems based on the Internet of Things (IoT), the present study found that the use of the IoT does not provide the same depth of analysis and understanding of legal information, making it less suitable for use in the legal field.

While the study by H.M. Mohamed (2024) identified the challenges and opportunities of using AI to achieve justice, this paper analyses the results of using information technology to analyse legal norms. In contrast to the study by D. Palasamudram *et al.* (2023), where the authors concluded that AI, in particular cognitive search, NLP and natural language generation, can be successfully used to create medical documents in the biomedical field, this study focused on the use of information technology and NLP in the legal field. Thus, the results of the study clarified the specifics and needs of jurisprudence, separating it from other fields, such as medicine. Moreover, the results of this study demonstrate that the use of AI and NLP in legislation contributes to the improvement of analysis and understanding of legal norms and texts. Compared to the study of E.S. Groenewald *et al.* (2024), which showed the role of AI in linguistics, this study focused on the use of these technologies in the context of law. On the other hand, in comparison with D.A. Arul Raj *et al.* (2024), who developed an AI system for detecting offensive language on social media and showed the results of a new AI-based foreign language learning strategy, this study focused on the results in specific aspects of legal analysis.

The current study and the work of S. Wehnert (2023) focused on the use of modern technologies in the legal field. However, the distinctive feature of this study was its emphasis on the use of AI and NLP for analysing legal tasks, as opposed to using large language models to avoid flaws in the legal domain, as discussed in another paper. The findings of the study also highlighted the need to use technology in legislation and develop new methods of its application. This distinguishes them from the work of G. Mercan and Z. Varol Selçuk (2024), which showed the results of an analysis of the integration of AI into legal practice, the problems of algorithm transparency, bias in data sets, and liability. As in the present study, M.U. Nasir *et al.* (2021) found that NLP is a necessary component of AI. However, the difference is that the current study demonstrated results specific to the legal field, while the 2021 study presented findings related to linguistics, computer science and mathematics. Furthermore, in comparison with the statement of R. Girju (2023) on the importance of diverse approaches in science for social progress, this study highlighted the role of technology in improving understanding of legal issues and ensuring access to legal information.

The results of this study, which analysed the interpretation of legal norms using AI and NLP, are comparable with the findings of D. Singh *et al.* (2024), which investigated the use of chatbots in business, showed that the former study focused on the analysis of legal regulations using modern technologies. At the time, the second study was aimed at implementing intelligent systems to optimise business processes using the same technologies. In turn, while this study provided specific technological solutions for analysing legal norms, the authors of A.R. Vargas-Murillo *et al.* (2024) concluded that AI is increasingly influencing justice, exploring the prospects, obstacles and consequences of its implementation.

Compared to the study by Q. Yan (2023), which pointed to the potential of AI in criminal defence, this paper examined the use of technology in legal norms. Instead, in comparison with P.D. Callister (2020) and L. Robaldo *et al.* (2019), where the authors demonstrated the effectiveness of NLP in legal information retrieval systems, as well as the connection between language and semantic technologies and law, the study demonstrates a broad analysis of the use of AI and NLP in the context of legal norms analysis. Other studies, including V. Geetha *et al.* (2023), D. Vaz (2023) and D.M. Monte-Serrat and C. Cattani (2021), have shown general aspects of the development of NLP and AI processing, not limited to application areas. In turn, this study has resulted in a deeper understanding of the possibilities of applying AI and NLP in the field of legal analysis. Compared to other studies that have covered a broader range of applications of these technologies, this paper focuses on the specific challenges and opportunities that arise in the legal context.

Therefore, this study focused on the role and impact of AI and NLP in the legal field, in particular, their application to analyse legal tasks. As such, these technologies can facilitate the processes of working with legal information, increasing the efficiency and accuracy of decision-making. The discussion considered the technical challenges, ethical issues and risks associated with the use of AI in the legal sector.

Overall, this paper argues for the importance of addressing these issues and developing appropriate strategies to ensure the effective and fair use of technology in the legal context. The study also proved useful in formulating recommendations for the further development and implementation of AI and NLP in legal practice, contributing to the improvement of legal processes and ensuring fairness in law enforcement.

Conclusions

This study evaluates existing methods and proposes theoretical models for the future development of new methods of using AI and NLP for legal text analysis. The results of the study show that the application of the studied methods of using technology in the legal sphere has significant potential for analysing legal texts and identifying key legal concepts. In addition, a comparison with other works identified the strengths and weaknesses of different methodologies and identified opportunities for further development. In particular, the author identifies the need for further improvement of classification algorithms and methods of analysing the structure of legal documents.

The study emphasises the effectiveness of using deep learning and automatic text-processing methods in the field of jurisprudence. Neural networks have made it possible to effectively analyse the structure of legal documents and classify legal terms and concepts. Moreover, new methods have been developed that have helped to expand the possibilities for analysing legal issues. Text-generation methods based on legal information allowed for the automatic creation of legal documents and analytical materials. Methods of classifying legal texts have also been developed, which simplifies the search and analysis of legal information.

The scientific and practical results of the work indicate the importance of further research in this area. The main areas for further research in this area include improving classification algorithms and methods for analysing the structure of legal documents, developing deep learning methods, exploring the possibilities of automating processes in the legal field and analysing the ethical and legal aspects of AI in the legal field. The recommendations are to further develop and improve AI and NLP methods to improve the analysis of jurisprudence. Additionally, it is important to consider the possibility of using these methods to automate legal processes and increase the efficiency of legal services.

The limitation of the study is the limited scope of the analysis, as well as the possibility of new technologies and methods that may affect the results. Nevertheless, the results obtained provide a basis for further research in this area.

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Conflict of interest

None.

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Можливості використання штучного інтелекту та обробки природної мови для аналізу норм права та їх тлумачення

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Анотація. Дане дослідження спрямоване на вивчення можливостей застосування інформаційних технологій та природної мови у вивченні норм права. Метою дослідження була розробка методів використання штучного інтелекту та обробки природної мови для аналізу правознавства. Для досягнення мети було створено автоматичні стратегії для розпізнавання основних тем в правових текстах, виявлення ключових правових концепцій та аналізу структури документів. Результати дослідження включають в себе аналіз існуючих методів використання технологій та природної мови для аналізу норм права. Було застосовано такі методи як машинне та глибинне навчання, синтаксичний та семантичний аналіз, автоматизована система класифікації, відносна аналітика та прогнозування рішень. Окрім цього, було впроваджено нові методи аналізу правових текстів, що базуються на використанні штучного інтелекту та обробки природної мови. Ці методи включають в себе використання тематичної моделі, яка дозволяє автоматично визначати основні теми в правових текстах, а також автоматичне виявлення правових концепцій, що допомагає в ідентифікації ключових понять. Крім того, використано нейронні мережі для аналізу структури правових документів, що дозволяє більш точно розпізнавати та аналізувати різні структурні елементи в документах. Також були впроваджені автоматична генерація тексту на основі юридичної інформації та способи класифікації правознавчих текстів за категоріями. Таким чином, основними результатами є автоматизація процесу аналізу та розуміння правових текстів, підвищення ефективності та точності виявлення тематичних зразків та ключових юридичних понять, а також поліпшення доступності та швидкості оброблення правової інформації. Отримані результати свідчать про великий потенціал використання технологічних засобів у правознавстві, що може значно покращити якість та доступність правових послуг, сприяючи ефективнішому вирішенню правових питань

Ключові слова: інформаційні технології; машинне навчання; аналітичні методи; юридичні стандарти; лінгвістичні обчислення; тлумачення норм права; юридична техніка

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Research on the legal principles of foreign policy identity in international relations

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Abstract. In recent years, the rapid development and differentiation of the international community has become not only a driver of progress, but also a cause of imbalance in power, as the foreign policy identity of a state depends not only on the chosen vectors of foreign policy, but also on the correlation between the views of political elites and society. The purpose of this study was to analyse the scientific literature for the coverage of the problems related to the legal principles on which the foreign policy identity of states in international relations is based. The methodological framework of this study included the heuristic method, methods of analysis and synthesis, methods of generalisation and abstraction. The study found that in modern research, the foreign policy identity of a sovereign state in the international arena is understood in the context of its dependence on the specific features of political processes within the state, as well as on the cultural identification of its ethnic group. These categories are the hallmarks of a state's identity in international politics and ensure the stability of its perception by other actors in international relations. One of the crucial tasks for the establishment and preservation of the foreign policy identity of the state is to reduce the pressure of political elites on the relations between the state and the people, as well as to ensure that the population of the state supports its foreign policy course in the international arena. Today, Ukraine lacks mechanisms to help eliminate such negative political

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influences, and therefore a system of cause-and-effect relationships was created to transform the priorities of sustainable development of the state's activities in this area. The practical significance of this study is that recommendations were developed to create conditions and eliminate internal and external threats in the field of international relations to ensure foreign policy identity with the possibility of their further application in the foreign policy of the state

Keywords: sovereignty; foreign policy; power influence; national interest; subjectivity

Introduction

State regulation of foreign policy processes is a vital component of ensuring the permanent development of modern independent states. A detailed investigation of the problem of forming the identity of states will allow subjects of international relations to choose an effective strategy in the political arena and ensure the development of relations between states with a comprehensive consideration of their interests, especially in the context of regionalisation of the modern world. It is necessary to acquire knowledge that covers the identity of subjects of international relations and will help to understand the position of sovereign states, as well as make it possible to obtain forecasts for future cooperation between them, considering not only geopolitical, economic, political, but also mental and ideological factors.

M. Latynin *et al.* (2021) write that market economies have approached the protection of economic competition gradually, and in post-transformation economies, including Ukraine, there are only the first signs of the development of competition policy principles. It is also important to add that the globalisation of various spheres of international relations, including trade and economic relations, leads to the promotion of competition and stays a valuable tool for self-regulation of the state's economic activity. All spheres of social and economic life in Ukraine have undergone considerable changes since the unprovoked full-scale invasion of its territory by the Russian Federation on 24 February 2022. O. Bakalinska *et al.* (2022) point out that numerous refugees and internally displaced persons found themselves abroad and had to undergo a special administrative process. However, researchers do not mention that Ukraine's foreign policy identity in the international arena played a role in opening the borders and helping displaced people. O. Kuzmenko *et al.* (2023) consider the issue of the difference in the legal status of refugees and internally displaced persons on the example of Ukraine. In their study, the researchers describe that there are two different legal statuses of persons in need of protection – the legal status of a refugee and the legal status of an internally displaced person, without focusing on each of them specifically.

T. Kortukova *et al.* (2023) summarise that refugee status is individual, while temporary asylum is collective and is provided in a short time through exceptional procedures. This study found that refugee status can only be obtained in a state that is safe for the person, while the status of a temporarily displaced person can be obtained in any state that is willing to accept them. M. Goncharenko *et al.* (2023) investigate state regulation as a tool for achieving sustainable development in Ukraine and the world in the context of war and post-war recovery. The researchers considered the impact of a full-scale war on the economy of Ukraine and the world as a whole, and analysed the activities of the UN in this context. It is also worth adding to the researchers' opinion that state regulation is necessary to avoid the decline of the state's economy during the war and in the period of post-war recovery, as it will help to formulate new priorities considering new challenges. Y. Chmyr *et al.* (2023), on the other hand, focus on the hierarchy of state functions in terms of ensuring national security in modern democracies. Notably, researchers have not considered a crucial aspect of the problem – that the security and defence of the state, along with the freedom of life and democratic self-development of the people, are the basis of activities to ensure the national security of states, including Ukraine.

O. Borodina *et al.* (2022) analyse certain factors o f Ukraine's regionalisation, specifically, the possibility of effective use of the administrative and territorial structure of the state, analysis of the concept of environmental development of individual regions of Ukraine. C. Hill *et al.* (2023) take an analogous position, describing the need to synchronise the process of administrative and territorial division of Ukraine with European countries, which would allow to implement the EU practices and offer a new vision of this process in Ukraine. In contrast to other researchers, O. Matiiek (2021) believes that as state borders are increasingly blurred due to active international relations, there is a need to protect one's own national identity, including in the international arena. S. Burchill *et al.* (2022), R. Ranta and A. Ichijo (2022) pointed out that the foreign policy concepts of states in the international arena today are interdependent and influenced by political, economic, and social identity factors. Due to the presence of many actors in international relations, there is a need to analyse and forecast the issues of state identity in foreign policy relations to determine trends in their development. The purpose of this study was to analyse different views and concepts presented in scientific sources on the legal framework that forms the foreign policy identity of states in the international arena.

The methodology of this study included the following methods: historiographical analysis, comparison, and terminological. By using the method of historiographical analysis, the study managed to thoroughly investigate scientific developments in the field of origin and understanding of the essence of the legal principles of foreign policy identity in international relations, their features and characteristics, as well as to identify and study the causes and factors of their occurrence. The use of the historiographical method helped to identify all the defining stages and the formation of a scientific understanding of foreign policy identity in international relations. This method made it possible to comprehensively investigate the entire body of scientific literature on the issue under study. Using the method of comparison, the study described and compared the terminology of the subject under study, namely, identified common and distinctive features between such terms "power influence", "political elite", "national interest", "sovereignty", "sustainable development", and "subjectivity". The applied methodological framework helped to formulate conclusions regarding the current scientific understanding of the legal principles of foreign policy identity in international relations.

The impact of identity politics on state sovereignty

Sovereignty and identity politics in international relations are ensured by legal norms and their application in practice in the foreign policy activities. The interaction between identity politics and socio-political processes in the context of globalisation has undergone considerable changes in recent decades. According to P. Gries and P. Yam (2020), the main constraint to globalisation is state sovereignty, which is inextricably linked to identity politics. Sovereignty also acts as a constraint on the possibility of alternative ways of forming identity and political organisation, and therefore this process should not be considered as an erosion of sovereignty by "external" forces, but rather as an explanation of the evolution of sovereignty at the level of the formation of the personalities of political elites. A clear distinction between the internal and external to the state, as well as equating the internal with sovereignty and the external with the absence of sovereignty, creates a separation of political outlooks. Globalisation today is, in essence, the greatest challenge to the relatively stable understanding of state sovereignty, and the emergence of a global world order allows understanding international relations not just as relations between states, but also recognising the nation-state as a special embodiment of sovereignty that builds its very identity. Thus, globalisation highlights new opportunities for public administration practitioners and authors of the discourse on sovereignty, as instability in the conceptual structure of the nation-state itself has been revealed. I.M. Isroilovich (2020) found that globalisation and the development of national culture in socio-philosophical terms are a major factor in achieving an objective assessment of this process.

According to S. Guzzini (2022), constructivist and post-structuralist theories of international relations, with their emphasis on social ontology and relational understanding of identity, better explain the practical maxim of the balance of identities in a stable international order than rationalist theories, but at the same time, the constructivist approach carries the risk of nationalist abuses that make it impossible to achieve such a balance of identities. Therewith, ethnicity and self-identification of the population play a leading role in the development of the foreign policy identity of each state in international relations, especially in the context of creation and influence of self-aware ethnic groups. R. Bhat and R. Rajeshwari (2022) argue that diaspora culture plays a special role in international relations, as it strengthens ties between countries of origin and host countries through cultural adaptation, preservation of diaspora ethnic identity, and their influence on foreign policy as stakeholder groups. F. Guimarães and I. Silva (2021) suggest that this process includes not only the cohesion of society along ethnic lines, but also their involvement in political processes. Summarising, the researchers believe that the process of acquiring political features by the identity of society, as well as the reverse influence of identity on the foreign policy of the state, takes place in three stages (Table 1).

Table 1. Stages of politicisation of ethnicity

Stage	Changes that are taking place
1	The society begins to realise that it belongs to a particular ethnic community, and also acquires the features of initial political consciousness, understanding that it can influence the course of state policy
2	Representatives of the ethnic elite begin a political movement to lead political processes within the state, and the ethnic population becomes more active
3	An ethnic nation mobilised by elites enters the international political arena, clearly stating its goals and intentions

Source: F. Guimarães and I. Silva (2021)

J. -Joseph (2023) demonstrates that the politicisation of international cooperation can have both stabilising and destabilising effects, depending on the nature of public debate, the activities of political entrepreneurs, and the favourable political environment in different countries and at different times. There are global differences between the interpretation of the subjectivity of the individual in international politics in the paradigm of the realist and idealist (liberal) concepts of international relations. The realist (state-centric) ideology considers the influence of an individual on international relations as an influence not only of their status and role characteristics, but also of their place in the system of state governance. The liberal view of international relations and the role of the individual in them is analysed primarily from the standpoint of their belonging to the human race as such, and emphasises the personal and social characteristics of the individual in international relations and events in general. R. Adler-Nissen and A. Zakarol (2021) take the position that at this particular moment in history, the struggle of the institutions of the liberal international order is expressed in digital, ideological, and organisational contexts, reinforcing each other. D.A. Lake *et al.* (2021) investigate and distinguish between such characteristics of the liberal international order as "liberal", "international", and "orderly".

Recently, there has been a marked increase in the role and influence of the individual on the international environment in the context of globalisation. Even though the influence of the individual on international politics is less visible, it is still an essential aspect of global international transformations. There are several factors that determine an individual's influence on international politics. First of all, the increase in an individual's influence on international events is associated with global changes in the international environment, as well as with a concrete type of political system and personal characteristics and the level of education and consciousness of a particular individual. There is a growing disconnect between the individual and the state, i.e., both sovereign states and political leaders representing not only states but also political elites in foreign policy relations are entering the international arena. Today, it is still difficult to predict the forms, and especially the results, of individuals' participation in international politics, but it is already becoming clear that the preference is shifting to human (individual) rights from the rights of the nation-state. The subjectivity of an individual in international relations can be defined through their compliance with certain characteristics, namely: involvement in world politics and influence of foreign policy factors on them; growing independence of

an individual from the state and international structures; awareness, and desire to realise their own goals apart from the political ones.

B. Kesgin (2020) considers foreign policy as a site of domestic identity politics. Different societal groups define their vision of inclusive and exclusive boundaries for the nation; these identity proposals provide the content of national identity for members and determine their behaviour. It is also important to understand that once the vision of identity becomes an internal political belief, then the internal competition of identity spills over into foreign policy. In this case, the proposal of an alternative identity as a search for hegemony within the country is vital for its supporters. Often, when political elites are blocked from promoting their identity proposals at home, they transfer this competition to foreign policy. R. Kibrik (2021) emphasises the differences between socio-political interests and identity, which are mistakenly presented as identical concepts in scientific doctrine. In general, law, politics, and individuals are intricately linked, and their relationship varies from state to state, as well as due to different historical contexts and past interactions. The interaction between law and policy also differs substantially at different stages of foreign policy management. A. Kuah (2023) describes that against the backdrop of globalisation, state sovereignty is closely linked to the politics of state identity. Anchored firmly in the nation-state, sovereignty is both the site and the boundary of what is considered political identity, and its norms and practices reflect changing perceptions of state identity.

In foreign economic activity, however, the fundamental driving force is competition, which not only determines the vector and course of economic relations, but also contributes to the growth of economic prosperity and innovation in society. Accordingly, one of the priorities of the state's policy is to ensure, protect, and develop the welfare of the population. Thus, competition can also be considerably reduced by various government policies and institutional mechanisms to adapt this rapidly changing process to the real conditions of the state. In any case, the subjects of international relations primarily rely on their own political and other interests in implementing their foreign policy.

Development of foreign policy identity of states in the context of globalisation

The current trend in understanding the national interest is to interpret it as a set of values and needs that contribute to the harmonious development of both individuals and society as a whole. M. Valbjørn (2023) takes the position that the interests of citizens and the state should be integrated. Instead of being opposed, they are considered as interdependent and common to all participants in political relations. This integration process may include ensuring the rights and freedoms of citizens, social justice, the concept of sustainable development. Researchers are increasingly using a holistic approach to understanding national interests and considering various aspects of life, such as the economy, society, environment, security, technology. Public participation is playing an increasingly important role in setting public policy priorities. Such changes in the understanding of national interests reflect a modern approach to politics and governance aimed at achieving broader social, economic, and environmental goals that contribute to the further development of the state and its position on the political world stage (Sraieb, 2016).

Foreign policy identity is a consequence of globalisation, and therefore the identity of a person (nation) can be equated with the mental and spiritual affinity and political consciousness of nations, as well as their ability to act independently on the global international stage. M. Yapp (2024) argues that "foreign policy identity" is a more accurate term than "nationalism" to describe a person's primary allegiance to a political unit, as it does not necessarily imply the need for an independent state. Foreign policy identity is stable and independent of concrete situations. It forms an integral part of national self-perception and identity. Notably, foreign policy identity can be the object of active state policy aimed at shaping a certain image in the world (Dmytrenko, 2024). This is in contrast to the situational foreign policy identification of the state, which depends on concrete circumstances and situations. Identification can change depending on current events and challenges and include tactical decisions and strategies aimed at achieving specific goals in a particular timeframe. M. Harbitz and D. Hubbard (2021) argue that situational political identity is usually imposed on an individual by external circumstances. It is also worth remembering that foreign policy identity refers more to beliefs and perceptions, while integration choices may be related to the implementation of concrete actions and strategies to achieve integration into the international community.

An important aspect of the development of the foreign policy identity of states is the formation and functioning of political elites in society. According to E.N. Saunders (2022), elites usually act situationally, adjusting to external circumstances, and therefore they often do not get what they want in foreign policy, despite strong advantages. The path from elite identity and preferences to foreign policy outcomes is not linear, and therefore elite political choices, incentives, and interactions are crucial to understanding them, as they shape and sometimes destroy a country's foreign policy. The modern identity of states is shaped in a globalised international space where modern communication tools almost completely level the differences between states. Following I. Govaere (2022), the media and communications, as well as the influence of political elites, are crucial for establishing the vectors of foreign policy identity today. At this stage, this is one of the most acute problems for Ukraine in establishing its political identity in the international arena. It is also difficult to overestimate the significance of state regulation as a tool for achieving sustainable development of countries, including Ukraine. Over the past decade, the international community has developed an entire system of causal relationships to transform the sustainable development priorities of sovereign states into separate blocks, including economic, social, and environmental (Karamyshev, 2019). New challenges to the international community in various areas of foreign policy are also being actively investigated.

With the beginning of the full-scale invasion of Ukraine by the troops of a neighbouring state, which was unprovoked and took place on 24 February 2022, the problem of refugees and asylum for persons in need of protection became particularly acute. Ukraine's closest western neighbour, the European Union, was the first to receive the influx of refugees. In its actions, the EU has been guided by the principles of solidarity, partnership, equality, and justice, as confirmed by the Communication from the Commission to the European Parliament and the Council (2023). A significant step was the abandonment of Article 11 of the Temporary Protection

Directive by EU member states, which greatly simplified the possibility of relocating persons to obtain temporary asylum. Such decisions, according to R.N. Lebow (2022), ensured smooth further movement in the EU, which helped to reduce pressure on the national reception systems of the Member States neighbouring Ukraine. V. Schneider and R. Werle (2022) examine the role of the European Community in shaping telecommunications policy as a separate institution, rather than as an international rule-making regime.

In recent years, the role of populist governments around the world has been strongly felt. For instance, in Europe, a range of populist parties and leaders have come to power over the past decade. S. Destradi *et al.* (2021) argue that this has been the case in Austria, Estonia, Finland, Greece, Hungary, Italy, and Poland. Having the executive branch of government under their control, populist forces can shape not only the concept of internal policy of their respective states, but also considerably influence the foreign policy of their countries and European politics in general. N.C. Krickel-Choi (2021) concludes that this may have significant implications for the European integration project, for relations between European member states and external powers, and for international norms and organisations in general. A.D. Ponte (2021) conducted a survey in his study, which found that the rhetoric of an influential European leader can influence citizens' emotions and attitudes towards austerity policies. Nevertheless, the transition to populist governments does not automatically lead to a reckless populist foreign policy, and therefore there is room for compromise. In this process, the geopolitical context plays a crucial role, but other factors, such as the activities of domestic state institutions, the dynamics of political coalitions, and especially the duration of stay of a particular political force in power, also strongly influence the development of a state's foreign policy identity (Oldak, 2023).

Proceeding from the above, it can be established that the foreign policy identity of a state is an important consequence of the processes of globalisation and integration of national interests with the needs of citizens. It is shaped by a range of factors, such as identity politics, the activities of political elites, media, and communications, as well as external challenges and threats. In contrast to situational foreign policy identification, a sustainable foreign policy identity is a component of national self-perception and can be the object of targeted state policy. At the same time, the rise of populism and authoritarianism in some countries creates new challenges for the development of a foreign policy identity that should accommodate the values of democracy, human rights, and sustainable development.

Specificity of state identity on the example of international experience

Power influence and political elite, national interest and sovereignty, sustainable development and subjectivity of international relations, and especially their interconnection are crucial for the establishment and development of foreign policy identity in international relations. Scientists from all over the world are trying to comprehensively investigate this issue and determine the foundations of the phenomenon of identity, what it is based on, and where it mainly comes from. C.C. Whytock (2018) studied this area mainly from a legal standpoint, namely international law. The researcher focused on political science research of international law, including the norms of modern interdisciplinary international law. At the same time, the present study found that not only the norms of international law itself form the basis of identity, but also an entire range of other factors, such as the mentality of society, the influence of power elites, restrictions on national sovereignty. In recent years, many researchers have also focused on the investigation of the foreign policy identity of a state in international relations on the examples of concrete sovereign entities.

K. Kakachia and S. Minesashvili (2015) analysed the extent to which Georgia's pro-Western foreign policy orientation is linked to ideas of its identity, not just materialistic and systemic factors. Researchers have concluded that modern legal approaches cannot comprehensively describe the behaviour of states, especially small ones. However, Georgia's foreign policy in recent decades has clearly seen a shift in identity towards defining itself as a "European", thus building a collective international identity that has considerable foreign policy implications. It is also important to consider the legal context of the international community's identity policy in post-war Kosovo, as it is a significant territory in the heart of the EU. M. Pajo and D. Sallova (2022) suggest that it was thanks to identity politics that the territory of Kosovo was defined as an UN-administered entity (until 2008) and then as an independent state. Notably, the newly adopted legislation prioritised identity in the region by promoting multiethnicity and civic identity as the political identity of the people of Kosovo. However, the international community has not considered this deep discrepancy between state and national identity, which has led to an identity crisis, especially among the Albanian majority. This has led to the radicalisation of a part of society and reduced support for government policy (Hubeladze, 2023).

The issue of the United Kingdom's foreign policy identity after its withdrawal from the European Union has long been investigated by M. Webber (2023), who believes that Brexit (the UK's withdrawal from the European Union) is at the same time a crucial, historical, controversial, and lengthy process. This description of Brexit applies to both the UK's internal policy and is at the centre of its foreign relations. This is because Brexit has challenged and simultaneously bolstered the identity of the United Kingdom, adapting to its new role is becoming necessary. Even though Brexit has destroyed the elite consensus in British politics, it has been found that political elites today hold a common position on national role orientations, especially in the international arena. Thus, role consensus is increasingly becoming a matter for the British ruling elite. A. Hadfield and R. Whitman (2023) take a comparable stance, pointing out that Brexit has led to a diplomatic reorientation on the part of the UK. Notably, the UK managed to achieve its broader foreign and security policy goals beyond Europe precisely by strengthening its own foreign policy identity, role, and status as a Euro-Atlantic power, alongside a "multilateral" approach that emphasised partnerships and foreign policy in Europe and beyond. As in all other sovereign states, the UK's national identity functions as a self-referential concept that denotes a narrative of political, economic, and social development, a predominant set of values and a legacy of past and present national interests. The identity of British society and the state interests of the United Kingdom reinforced each other, developing a coherent national identity and an understanding of how to ensure its reflection in the state's

foreign policy activities in the international arena (Wolff & Liñeira, 2023).

In the last decade, there has been a tendency to increase the role of medium-sized states in international politics. A. Umar (2023) notes that the role of middle powers is becoming increasingly prominent in world politics. However, there is currently insufficient attention paid to the investigation of the concepts of public order of medium-sized states, as well as to the trends in the implementation of these concepts in international politics. The researcher examines the role of a medium-sized state in global foreign policy processes using evidence from Indonesia, considering it as an example of an Asian medium-sized power that is constantly evolving. The study found that, in general, after the establishment of Indonesia's democratic system, it managed to interact constructively with the liberal international order. Notably, the Indonesian concept of the international order is based on the fundamental idea that Indonesia should maintain its autonomy in international politics. Its foreign policy concept is based on three important identifying elements: sovereignty, sovereign equality, and multilateralism. E. Mukminto and R. Wahanisa (2022) take a somewhat different position on Indonesia's foreign policy identity, arguing that Indonesian politics has achieved regional autonomy in recent years, as the Indonesian government has chosen a course of decentralisation of power. However, the researchers do not mention that many of the newly adopted regulations were criticised because they generally did not reflect the interests of minorities. Therefore, the most noticeable trend was still Indonesia's Islamic religious identity. The framework of modern Indonesian politics at the national or local level cannot be separated from the influence of the past, but Indonesia has been actively engaged with major powers since the first years of its independence. This active engagement in international life reflects the desire of Asian middle powers to secure their autonomy in international politics and underscores the desire of Asian middle powers to implement a concept of international order that will allow them to obtain the necessary benefits from larger powers in international politics.

L. Hagström and K. Gustafsson (2015) used two approaches in the study of Japan's identity in international relations. One of them considers identity as a concept shaped by internal norms and culture, as well as a component of the interests that determine its foreign policy behaviour. According to the second approach, Japan's identity emerges and changes through processes of differentiation in relation to other actors in international relations. However, researchers have paid insufficient attention to the fact that the notion of domestically produced identities is ambiguous, and while entrepreneurs' identities and emotions play an important role in changing identities within the multi-level model, they still have some free will despite being constrained by institutional frameworks. Japan's foreign policy identity clearly shows how it can successfully restrain the ambitious political plans of other actors in international relations, relying on its internal system of values and norms. However, on the other hand, Japan's identity needs to be revised today in the context of its adaptation to modern requirements, not only without a peacetime policy, but also the entire foreign policy strategy.

Conclusions

The current academic discourse is dominated by the idea that foreign policy identity plays a key role in establishing a state as a sovereign actor in the international arena. The researchers note that the development of this identity is influenced not only by ideology and political system, but also by the confrontation of political elites, the role of individuals in politics, and the self-determination of the people. Generally, there is a tendency to consider the relationship between ideology and international relations as a complex and multifaceted process.

Many researchers are inclined to believe that the ideas of freedom, equality, or social justice can unite people across national borders. However, ideologies also often lead to divisions within nations due to conflicting views and values. It is noted that liberals can support active participation in international organisations and global cooperation, while conservatives are more inclined to defend sovereignty and patriotic positions. Some studies have suggested that individual worldviews influence elite decision-making and public opinion, while citizens' ideological beliefs determine their support for certain candidates or parties, shaping state policy. Notably, researchers link the orientation towards social dominance and right-wing authoritarianism with attitudes towards other nations and approaches to international relations. Studies also suggest that developed economies have gradually approached competition and identity protection after a long period of antitrust legislation, while post-transformation economies began to formulate the foundations of competition policy only after gaining independence and transitioning to a market system. Some researchers point out that initially, the identity of states was built on mechanisms for detecting and combating violations, where the objects were mainly business entities.

The researchers note the need to transform approaches to public administration of international policy in Ukraine and the lack of sufficient scientific substantiation for this, which demonstrates the significance of addressing this issue. Contemporary studies emphasise the need to consider the growing role of middle powers under the influence of their own identity when investigating the international order. Specifically, it is noted that Asian middle powers are adopting complex concepts of foreign policy identity, namely under the influence of the religious factor, which encourages them to engage constructively with the international community. Calls are made for future, more multifaceted research on the identity of middle powers in the international order to broaden its understanding.

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Conflict of interest

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Дослідження правових засад зовнішньополітичної ідентичності в міжнародних відносинах

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Анотація. Стрімкий розвиток та диференціація міжнародного співтовариства в останні роки стає не лише рушієм прогресу, але й причиною розбалансування владних впливів, оскільки зовнішньополітична ідентичність держави залежить не лише від обраних напрямків зовнішньої політики, але і від співвідношення поглядів на них політичних еліт та суспільства. Метою цього дослідження був аналіз висвітлення в науковій літературі проблем, пов'язаних з правовими засадами, на яких ґрунтується зовнішньополітична ідентичність держав в міжнародних відносинах. Як методологічну основу цього дослідження було застосовано евристичний метод, методи аналізу та синтезу, методи узагальнення та абстрагування. В ході проведеного дослідження було з'ясовано, що в сучасних дослідженнях зовнішньополітичну ідентичність суверенної держави на міжнародній арені розуміють в контексті її залежності від особливостей політичних процесів всередині держави, а також від культурної ідентифікації її етносу. Саме ці категорії є ознаками ідентичності держави у міжнародній політиці, а також забезпечують стабільність сприйняття цієї держави іншими суб'єктами міжнародних відносин. Одним із найважливіших завдань для становлення та збереження зовнішньополітичної ідентичності держави дослідники відзначають зменшення тиску політичних еліт на відносини державної влади та народу, а також забезпечення підтримки населенням держави її зовнішньополітичного курсу на міжнародній арені. На сьогодні в Україні відсутні механізми, що допомогли б усунути такі негативні політичні впливи, тому було створено систему причинно-наслідкових зв'язків для трансформації пріоритетів сталого розвитку діяльності держави в цьому напрямку. Практичне значення цього дослідження полягає у тому, що були розроблені рекомендації щодо створення умов та усунення внутрішніх і зовнішніх загроз у сфері міжнародних відносин з метою забезпечення зовнішньополітичної ідентичності із можливістю подальшого їх застосування у зовнішній політиці держави

Ключові слова: суверенітет; зовнішня політика; владний вплив; національний інтерес; суб'єктність

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Social determinants of corruption and legal methods of counteracting it in the modern conditions

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Abstract. Corruption is a global problem undermining social, economic, and political stability in many countries of the world. Kazakhstan, as a rapidly developing country, realises the harmful role of corruption in society and is taking significant steps to combat this problem. The purpose of the study was to investigate the procedures used to look into and prosecute cases of corruption. To achieve the objectives of the article the following methods were used: analysis of legislation, dogmatic method, methods of interpretation and comparison, statistical data method. Legislative documents, reports and other sources related to corruption and its counteraction in Kazakhstan were considered; study of the work of anti-corruption institutions: analytical work was carried out to study the role and activities of anti-corruption institutions in Kazakhstan and identified the key social determinants of corruption in the country. The article highlighted the main legislative acts adopted by Kazakhstan to combat corruption, and their impact on the public and legal space. It can be concluded that the adopted legislative acts and the activities of anti-corruption institutions have a positive impact on the fight against corruption and increased transparency in the country. It was concluded that in order to update the legislation and introduce new norms, the legislator should conduct a thorough study of the social

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determinants of corruption. Thus, the practical significance of this study is that its theoretical conclusions can be used by government agencies to improve the fight against corruption in Kazakhstan

Keywords: regulatory framework; anti-corruption measures; criminal liability; international cooperation; money laundering

Introduction

This topic in modern conditions is of great importance to ensure an effective fight against corruption, to protect the rule of law and to create a just society. The study in modern conditions is necessary for several reasons. First of all, strengthening law enforcement: corruption often involves complex schemes and networks that require specialised knowledge and investigative techniques to uncover. The study of this topic helps law enforcement agencies and the judiciary to develop the necessary skills and knowledge to effectively investigate and prosecute corruption cases. Gaining knowledge about the connection between corporate social responsibility and local corruption might help one comprehend the dynamics of corruption more broadly (Ucar & Staer, 2020). Understanding the complex effects of corruption on income inequality, particularly in various political and economic circumstances, is critical for creating effective anti-corruption policies (Keneck-Massil *et al.*, 2021). Secondly, promoting accountability and transparency: understanding the criminal law aspects of anti-corruption contributes to a culture of accountability and transparency. It helps establish mechanisms to hold public officials, individuals, and organisations accountable for their actions, thereby promoting good governance and preventing the abuse of power. Enhancing the state of the economy, healthcare, and education can all help to lessen corruption, underscoring the necessity of structural adjustments to help anti-corruption initiatives (Remeikienė *et al.*, 2020). Thus, the study of this topic is critical to the development of effective policies, laws, and institutions to combat corruption, ensure accountability, protect public resources, and promote good governance. The problem of the study lies in the shortcomings in the effectiveness of the existing criminal law frameworks and measures to counter corruption in the contemporary context, which is why the study is needed.

As noted by A.B. Aituarova and A.A. Kushkimbayev (2021), there is no practical view on the possibility of implementation of international legal instruments, their provisions are incorporated into national legislation. International legal cooperation of countries in the fight against corruption, an established system with its routine and institutional mechanisms, should be studied. In addition, it is new for science to analyse the elements of the system and identify specific forms of international cooperation against corruption. For this purpose, on 26 December 2014, the Decree of the President of the Republic of Kazakhstan No. 986 "On the Anti-Corruption Strategy of the Republic of Kazakhstan for 2015-2025" (2014) was approved. The goal of the strategy is to increase the effectiveness of the country's anti-corruption policy, to involve the entire society in the anti-corruption campaign, and to reduce the level of corruption in Kazakhstan by creating an atmosphere of "zero" tolerance for any form of corruption.

As R.T. Nurtaev (2020) points out, the relevance of the fight against corruption in all its manifestations at all levels has not diminished. The authorities encourage the adoption of national plans, strategies, and other documents, to adopt legislation, and to give the authorities the necessary powers. Thus, it can be seen that the powers of the prosecutor are quite broad and allow to systematically confront corruption: two forms of participation in the case, by checking the legality of court decisions, initiating the transfer of the property of guilty employees to the state. According to E.V. Mitskaya (2023), it is imperative to forbid the exemption from criminal obligation based on the statute of limitations' expiration. This is an illustration of the developing practice of enforcing the criminal law's standards to improve the fight against corruption. This kind of ban would accurately represent the entire scope of the penal code. Currently, criminals have the ability to exit the nation and continue to profit from unjust enrichment, potentially evading justice due to the 2018 removal of restrictions in the Criminal Code. Regrettably, this change renders the national anti-corruption plan incompatible with its goals.

D.N. Sadvakasova and G.R. Sartayeva (2020) argue that the growth of criminal offences related to public procurement is due to the freedom of entrepreneurship, the development of financial and stock markets and the changing role of the state in the regulation of economic relations. These and other factors require not only a systematic improvement of the regulatory and legal approach to the participants of economic activity but also modern criminal-legal measures to protect the interests of society and the state. Additionally, it is crucial to consider the broader context of international cooperation in combating organised crime, as highlighted in the Article by I. Dziublenko and N. Zhabinets (2024). As of 2024, organised crime continues to impede sustainable development, demanding strong international collaboration systems. The authors conducted an investigation of international cooperation methods in countries such as the United States, Ukraine, Japan, Australia, and Cameroon, providing valuable insights into the factors that promote or impede the success of these efforts. The findings emphasise the importance of a coordinated approach, including public agencies and governments, in developing new or adapting existing legislation and methods to successfully tackle organised crime. This greater understanding of the role of international collaboration in combating organised crime supports Kazakhstan's anti-corruption initiatives, emphasising the global interconnection of these concerns.

According to J. Wachs *et al.* (2019), combatting corruption requires addressing the structural aspects of social capital. The authors' research shows that settlements with fragmented social networks, indicating high bonding social capital, experience higher corruption risks, whereas those with diverse external connections, indicating bridging social capital, face reduced corruption risks. These findings imply that anti-corruption measures should include not only legislative and administrative reforms, but also the development of social institutions that promote transparency and impartiality. As a result, developing policies that promote social variety and connectedness within communities could be an important step towards eliminating corruption and enhancing government.

Thus, the research aims to analyse and summarise anti-corruption measures, as well as to identify imperfections

in the legislation and opportunities for its improvement for a more effective fight against corruption in Kazakhstan. The legal framework has also been analysed, including mechanisms and strategies for countering corruption in modern society in Kazakhstan.

Materials and methods

Comparative method. Different legal frameworks and strategies in combating the phenomenon of corruption are examined. Several countries and jurisdictions were studied to identify commonalities, differences, similarities, and best practices in the fight against corruption and to identify best practices that can be used for policy recommendations. Similarities, differences, strengths, and weaknesses were also examined to identify best practices and to make recommendations for improving the criminal justice response to corruption. Dogmatic approach was used to analyse and interpret legal concepts, principles, and norms concerning anti-corruption measures. It entailed a rigorous assessment of the legal doctrines and ideas that underpin anti-corruption legislation, with an emphasis on the logical structure and internal coherence of legal norms. This method aided in comprehending the theoretical underpinnings of anti-corruption measures as well as their practical implications within Kazakhstan's legal framework.

Legal method. It involved a systematic study of existing legislation, court decisions and the legal framework. Legal provisions were analysed, their effectiveness was assessed, gaps were identified, and legal reforms or improvements were proposed (Law of the Republic of Kazakhstan No. 410-V, 2015; Law of the Republic of Kazakhstan No. 416-V, 2015; Law of the Republic of Kazakhstan No. 191-IV, 2009). This analysis helped to assess the adequacy and coherence of the legal framework and provided insight into legal challenges and opportunities to combat corruption. This included examining programme documents, assessing their implementation, and looking at the socio-political context in which they operate. Anti-corruption policies and measures taken by governments, international organisations or anti-corruption agencies were analysed. Policy documents, their implementation, and their impact on the fight against corruption were assessed. Policy analysis helped to identify strengths, weaknesses, and areas for improvement of anti-corruption policies and their compliance with the criminal legal framework. The method also provided insight into definitions of corruption, penalties, investigative procedures, and other legal aspects relevant to the fight against corruption.

To investigate the social determinants of corruption in Kazakhstan, this study focused on two key indicators: well-being, measured by GDP per capita, and trust in authorities. The indicator of well-being was chosen to examine the potential relationship between a country's economic development and the prevalence of corruption, as higher levels of economic well-being may be associated with stronger institutions, better governance, and lower levels of corruption. Trust in authorities was selected to analyse the relationship between public trust in government institutions and the perceived level of corruption, as low trust in authorities could contribute to an environment conducive to corrupt practices.

Statistical data method was used to analyse quantitative data related to corruption, such as bribery rates, conviction rates or financial data, convictions, or other relevant indicators. The statistical method was employed to identify trends, patterns, and correlations, providing evidence-based information on the effectiveness of anti-corruption efforts to combat corruption. Researchers often analysed statistical data related to corruption cases, including the number of reported cases and sentencing outcomes (Bocharova, 2022). The analyses were also used to elucidate financial data such as asset confiscation, money laundering patterns and financial transactions related to corruption. The statistical and financial analyses provided insight into trends, patterns, and the effectiveness of legal measures. The methodology employed to determine the connection between well-being (GDP per capita), trust in authorities, and corruption involved the analysis of existing economic data and statistical analysis. The data for Kazakhstan were obtained from Our World in Data sources (Human rights index…, 2022; Civil liberties index, 2023; Electoral democracy index, 2023). Transparency International's corruption perceptions index (Global Corruption Barometer, 2017) was consulted to assess the perceived levels of corruption in various countries, informing the comparative analysis of anti-corruption strategies.

Economic analysis was used to determine the economic consequences of corruption and to measure its impact on economic growth, investment, competition, and development (Global Corruption Barometer, 2017). It was also used to investigate mechanisms and tools that promote transparency, resource efficiency and the prevention of economic abuse. Interdisciplinary approach: it allowed for a more complete and comprehensive understanding of the problem of corruption and the development of comprehensive recommendations and approaches to combat it.

Results

A regulatory framework of anti-corruption measures has been established in the country, but practice shows that the existing measures do not always effectively address the problem of corruption. Therefore, the fight against corruption in any sphere requires resources – certain knowledge and skills, adequate funding, technical support, comprehensive investigation, and control by national and international monitoring organisations. corruption and the shadow economy are interrelated and complementary concepts. The shadow economy breeds corruption, and the social economy creates fertile ground for the shadow economy. The shadow economy has formed corrupt relations in various spheres of politics and economy, which is the basis for its prosperity (Alimov & Isroilov, 2020). Corruption is one of the negative phenomena that hinders the progress and development of modern countries. Corruption today is a widespread problem and affects all spheres of public life. At the same time, the essence of corruption is not in bribery or corruption of persons in the public sector, but in the disintegration of specific social systems, including the system of state power.

Over the period from 2015 to 2023, the Republic of Kazakhstan has created a regulatory framework of anti-corruption measures aimed at ratification of several international treaties, as well as numerous legal acts. Practice has shown that these anti-corruption measures are not consistent with the manifestations of corruption, above all, the measures are imperfect and cannot fully solve the problem of combating corruption. The theoretical foundations and logical framework of these anti-corruption laws were examined using the dogmatic method, which showed that they are consistent with the larger legal doctrines and principles of Kazakhstan's

legal system. The Republic of Kazakhstan has adopted numerous legal acts and ratified international treaties aimed at combating corruption: Law of the Republic of Kazakhstan No. 410-V "On Combating Corruption" (2015), Law of the Republic of Kazakhstan No. 416-V "On the Civil Service of the Republic of Kazakhstan" (2015), Law of the Republic of Kazakhstan No. 191-IV "On Combating the Legalisation (Laundering) of Proceeds of Crime, Laundering of Proceeds of Crime and Financing of Terrorism" (2008). It should be noted that these are only some of the most important documents related to the fight against corruption in the Republic of Kazakhstan. These laws define corruption offences, establish penalties, and provide a legal basis for the investigation and prosecution of corruption offences. The Anti-Corruption Agency (ACA) of Kazakhstan is responsible for preventing and combating corruption. The ACA investigates cases of corruption, coordinates anti-corruption efforts, and develops policies and programmes to prevent corruption. Kazakhstan has established specialised anti-corruption courts to hear corruption cases. These courts have jurisdiction over corruption offences and are responsible for conducting fair and impartial trials.

Developing and improving legislation, building an anti-corruption culture and an effective civil service are important steps in the fight against corruption. In addition, strengthening the role of parliament and increasing accountability to citizens are considered significant aspects. The adoption of new legal and regulatory acts implies the need to streamline the whole range of newly introduced and existing measures, including those aimed at optimising the work of the state apparatus, creating an efficient civil service and, through the formation of an anti-corruption culture, establishing a unified modern civil society without corruption. According to statistics, in 2019, the personal data of 11 million Kazakhstanis leaked from the servers of the Central Election Commission. In 2020, specialists from the Centre for Analysis and Investigation of Cyberattacks (CARCA) discovered data leaks from the Prosecutor General's Office and the Health Care Quality Control System. That same year, a team of white-hat hackers scanned 91 government web resources for vulnerabilities. CARCA plays an important role in detecting data leaks. Its experts have detected leaks from various government agencies, indicating their activity and importance for cyber security in the country. Thus, the public service of the Republic of Kazakhstan continues to improve even today. As foreign experience shows, this process should be constant and continuous. It is fundamentally important to fundamentally change approaches to working with the public, non-governmental organisations, initiative groups and individual citizens. It should not be forgotten that all this is done, first of all, to improve the efficiency of the work of state bodies (Bocharova, 2022).

From the analysis of the current situation, development trends and achievements in public administration and the rule of law contained in the National Development Plan of the Republic of Kazakhstan until 2025 (Decree of the President…, 2018), the following points can be noted: constitutional reforms in 2017 aimed at a rational redistribution of powers between the main branches of government; significantly strengthen the role of the Kazakh parliament and its control over the government; serious efforts to form a "compact government" and increase accountability to citizens. At the same time, the transfer of some state functions and services to lower levels and competitive environments is recognised as expedient; the principle of progressive meritocracy is being widely introduced in the process of reforming the civil service, and measures are being taken to improve the effectiveness of the current system for assessing the effectiveness of the civil service (Blishchuk, 2023).

An important point in the fight against corruption is to shift the focus to the social sphere, including education and the formation of ethical behaviour. The moral qualities of civil servants and their efficiency influence public administration. In the process of developing anti-corruption measures, the leadership of the Republic decided to shift the focus of the fight against corruption to the social sphere. To include standards for the formation of personal ethical behaviour, legal culture, and professional ethics in the educational programmes of profile educational institutions, and to introduce ethical behaviour of managers and subordinates. A special role is played by the formation of the moral image of civil servants, for which purpose the norms of administrative behaviour, the so-called code of ethics, are formulated (Abdrasulov *et al.*, 2023). The effectiveness of public administration is closely tied to the moral qualities exhibited by civil servants, including critical and objective assessment of corruption-related information, acknowledgment of corruption as a societal issue, clear comprehension of the anti-corruption agenda, seizing every opportunity to mitigate corruption in specific spheres of life and activity, and purposeful motivation for anti-corruption actions aligned with societal moral and legal norms.

The sociological analysis of the determinants of corruption in Kazakhstan reveals critical insights into the relationship between various social, economic, and political factors and the prevalence of corrupt practices. Key indexes such as the Civil liberties index (2023), Electoral democracy index (2023), Human rights index vs. GDP per capita, Kazakhstan (2022) were examined to identify their correlation with corruption levels in Kazakhstan.

The human rights index measures the extent to which citizens enjoy physical integrity rights and civil liberties, with higher scores indicating more rights. In the context of Kazakhstan, the analysis shows that despite a moderate GDP per capita, the country scores relatively low on the human rights index. This suggests that economic development alone does not suffice to ensure the protection of human rights. The Human rights index vs. GDP per capita, Kazakhstan (2022) illustrates this relationship, where Kazakhstan is positioned among countries with a similar GDP per capita but lower human rights scores. The correlation between GDP per capita and the human rights index indicates that countries with higher economic well-being tend to have stronger institutions and better governance, which can contribute to lower corruption levels. However, Kazakhstan's position suggests that other factors, such as political and institutional integrity, play a significant role in combating corruption.

The electoral democracy index reflects the extent to which political leaders are elected under comprehensive voting rights in free and fair elections, including freedoms of association and expression. Kazakhstan's historical trend on this index (Fig. 1) shows fluctuations, with notable declines during certain periods. The current low score indicates limited democratic practices, which can create an environment conducive to corruption. A low electoral democracy index

score suggests that the lack of transparent and accountable electoral processes undermines public trust in authorities. This distrust can lead to increased corruption as citizens perceive government institutions as self-serving and unaccountable. The civil liberties index measures the extent of civil liberties enjoyed by citizens, with higher scores indicating more liberties. Kazakhstan's declining trend on this index over the years (Fig. 1) underscores the erosion of civil liberties in the country. The declining civil liberties correlate with increased corruption, as restrictions on freedom of speech, assembly, and press limit the ability of civil society to hold government officials accountable. When citizens cannot freely express their concerns or protest against corrupt practices, corruption flourishes unchecked.

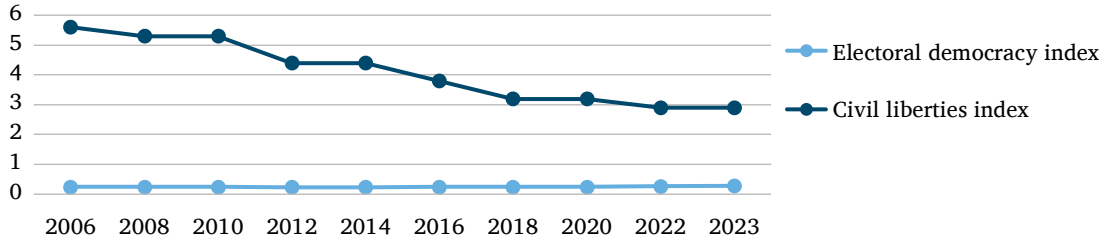

Figure 1. Combined trends in civil liberties and electoral democracy indices for Kazakhstan, 2006-2023
Source: made by the authors based on Civil liberties index (2023), Electoral democracy index (2023)

The analysis reveals that low scores on the human rights index, electoral democracy index, and civil liberties index are significantly correlated with higher levels of corruption in Kazakhstan. The lack of political freedoms, civil liberties, and effective democratic processes creates an environment where corruption can thrive. Trust in authorities is undermined by these deficiencies, leading to public cynicism and the acceptance of corrupt practices as the norm. Therefore, in addition to economic development, efforts to combat corruption in Kazakhstan must also prioritise bolstering democratic institutions, defending civil liberties, and upholding human rights. To effectively minimise corruption, comprehensive reforms that improve accountability, openness, and public participation in governance are needed.

In conclusion, the sociological determinants of corruption in Kazakhstan highlight the complex interplay between economic, political, and social factors. While economic well-being is important, it is the integrity of democratic institutions and the protection of civil liberties that play a crucial role in combating corruption. The analysis underscores the need for a holistic approach to anti-corruption strategies that addresses these underlying determinants.

The components of bribery in this study are examined through the prism of law enforcement in investigative and judicial practice. Furthermore, it is impossible to properly characterise an identified criminal act without distinguishing between what constitutes the criminal act itself and other related criminal acts. Proper characterisation precludes the unjust conviction of persons whose behaviour does not constitute a public danger and is not unlawful and creates the legal prerequisites for the punishment of true criminals. The legal consequences of eligibility are manifold. First of all, they are penalties or other measures of influence provided for by the current legislation under which a particular offence is qualified. Since the criminal law dictates the most effective measures against the relevant category of offences, an error in qualification may weaken the effectiveness of the fight. Kazakhstan has recognised corruption as a serious problem and has taken various measures to combat it.

Kazakhstan cooperates with international organisations, such as the United Nations Office on Drugs and Crime (UNODC) and the Organisation for Economic Co-operation and Development (OECD), to strengthen its anti-corruption efforts. This cooperation includes the exchange of information, experience, and best practices in the fight against corruption. Kazakhstan has introduced measures to protect whistle-blowers who report corruption. The law provides guarantees to persons who disclose corruption-related information and prohibits reprisals against whistle-blowers. Kazakhstan has introduced asset recovery mechanisms to seize and recover proceeds of corruption. These measures are aimed at confiscating assets derived from corruption and returning them to the state (Ferguson, 2018).

The reasons for the current situation in the field of anti-corruption measures include insufficient scientific study of the problem, insufficient understanding of the essence and peculiarities of additional punishment, shortcomings in the imposition of additional punishment, as well as objective and subjective obstacles to its enforcement. To study the root causes of corruption offences and find ways to combat corruption, it is necessary to radically change the traditional methodological system that has been used so far. The high ability of corruption to adapt to the changing external environment and the modernisation of internal mechanisms of governance lead to a rapid loss of relevance of previously developed measures to combat crime. Approaches to combating corruption must be very dynamic, constantly reviewed and modernised as how corruption is committed change. It is advisable not to look for the root causes of corruption in isolation from general crime trends at the global, national, regional, or sectoral levels (agriculture, industry, business, banking).

In modern conditions, eradicating corruption by fighting corruption is an almost impossible task. This is not the idea of complete eradication of corruption, but the idea of containment and control of corruption so that its level does not exceed a critical mass and does not interfere with the gradual development of an anti-corruption state. The key laws in Kazakhstan relevant to combating corruption and promoting transparency have incorporated various measures to address social determinants, though there are areas for improvement.

Law of the Republic of Kazakhstan No. 191-IV "On Combating the Legalisation (Laundering) of Proceeds of Crime, Laundering of Proceeds of Crime and Financing of Terrorism" (2009) addresses the financial aspects of crime and

terrorism financing, focusing on financial transparency and accountability. Article 6 emphasises the system of measures for financial control, which is vital for ensuring that economic resources do not fuel corruption or terrorism. While the law focuses on financial mechanisms, it indirectly impacts social determinants by promoting transparency and accountability in financial transactions, which are essential for a fair economic environment and reducing corruption.

Law No. 410-V "On Combating Corruption" (2015) specifically targets corruption through various measures such as anti-corruption monitoring (Article 7), analysis of corruption risks (Article 8), and formation of an anti-corruption culture (Article 9). These measures are critical in addressing the broader socio-economic and political factors that contribute to corruption. For example, Article 4 outlines the basic principles of combating corruption, including transparency and public engagement, which are crucial for improving civil liberties and democratic processes. Articles 16 and 17 focus on measures to combat corruption in entrepreneurship and the national anti-corruption report, respectively, emphasising the need for systemic reforms to address corruption comprehensively.

Law of the Republic of Kazakhstan No. 416-V "On the Civil Service of the Republic of Kazakhstan" (2015) outlines the framework for civil service, promoting integrity and professionalism among public officials. Article 3 establishes the principles of civil service, including meritocracy and transparency, which are essential for reducing corruption by ensuring that civil service positions are filled based on qualifications rather than nepotism or bribery. This law also emphasises the importance of protecting civil servants' rights and ensuring a fair working environment, which correlates with higher scores on civil liberties and democratic indexes, contributing to lower corruption levels.

These laws collectively address various aspects of corruption, from financial controls to civil service integrity and public engagement, indirectly impacting social determinants such as civil liberties, democratic practices, and human rights. However, to effectively combat corruption, these legal frameworks must be supported by robust enforcement and continuous evaluation to adapt to the evolving socio-economic and political contexts in Kazakhstan.

The attributes and characteristics of positive aspects of the national identity, as well as general mechanisms that organise a positive professional culture of the younger generation with consideration of international standards, are highlighted. To effectively combat corruption in Kazakhstan, it is important to adopt a comprehensive approach combining preventive measures, law enforcement efforts and institutional reforms. Here are some new and effective methods that can be used: Strengthening anti-corruption legislation: continuous review and updating of existing anti-corruption legislation to address emerging problems and loopholes. Introduce strict penalties for corruption offences, including increased fines and imprisonment as a deterrent. Implement measures to increase transparency in public administration, such as:

1. Promoting open data initiatives, publishing government budgets, and ensuring public access to information.

2. Encouraging the use of technology to streamline processes and minimise discretion.

3. Establishing a robust system of protection for whistle-blowers who report corruption.

4. Encouraging people to come forward by providing legal protection, maintaining confidentiality, and offering financial incentives.

5. Establishment of specialised units to investigate reports and take appropriate action.

6. Ensuring the independence of the judiciary by maintaining judicial appointments, training judges on anti-corruption measures and providing adequate resources to the judiciary.

7. Establishment of specialised anti-corruption courts or chambers to expedite the processing of corruption cases.

8. Development of anti-corruption agencies: giving anti-corruption agencies sufficient resources, authority, and independence to investigate and prosecute corruption cases.

9. Implementation of integrity systems in the public sector, including codes of conduct, ethics training and asset declaration requirements for public servants.

10. Establish independent bodies to monitor compliance with these systems and impose sanctions for violations.

11. Conduct public awareness campaigns on the harmful effects of corruption and their role in combating it.

12. Fostering a culture of integrity through civic education, emphasising ethical values, and promoting anti-corruption attitudes.

These measures should be implemented in a coordinated manner involving all stakeholders, including government authorities, civil society organisations, the private sector, and the general public, to ensure a sustainable and effective fight against corruption in Kazakhstan. Successful implementation of preventive measures would not be possible without the support of anti-corruption civil society institutions, which require further improvement. Based on this, a comparative analysis of the norms and mechanisms of suspension of investigation and punishment of corruption offences in different countries is conducted. The Netherlands, Indonesia, and Hong Kong are countries under comparison. The legal system in use determines which of these nations is selected. Indonesia and the Netherlands have civil law systems, whereas Hong Kong has a common law system. The diversity in legal systems have the potential to enrich and disclose new views on issue solving (Rinenggo *et al.*, 2022). Transparency International's annual study, held in 2020, highlighted Hong Kong's tolerance for corruption. According to the survey, 87.6% of participants said Hong Kong's corruption was totally intolerable. Hong Kong society's low tolerance for corruption is shown in the survey's average score of 0.4, which is based on a 0-10 scale, where 0 represents undesirability and 10 indicates extreme acceptability (Halimah *et al.*, 2021).

While each country's anti-corruption law framework is unique, the rules and roles of the anti-corruption authorities in Indonesia, Hong Kong, and the Netherlands are comparable. One of the similarities between them is that, both in norms and in practice, there is a mechanism to terminate the investigation of corruption offences. Within their respective legal contexts, Indonesia and the Netherlands have statutory provisions for ending investigations. But Hong Kong is the only nation where this method is acknowledged and regularly used in the practice of law. Regarding prosecution, the Public Prosecutor's Office has the same authority to pursue cases pertaining to corruption crimes in both Hong Kong (The Prevention of Bribery Ordinance (Cap. 201), 1971) and the Netherlands (Dutch Criminal Code, 1881). According to the Law No. 31/1999 "On Corruption Eradication" (1999),

corruption charges in Indonesia are subject to dual prosecution, with the Corruption Eradication Commission in addition to the prosecutor's office. These nations are likewise accustomed to the procedures used to drop criminal charges related to corruption violations. The Netherlands, Hong Kong, and Indonesia have different requirements before ending a criminal prosecution. Out of all these nations, the Netherlands has the most extensive standards for closing criminal proceedings. Judging from the implementation in some countries, such as the US, anti-corruption oversight should be carried out by an integrity board, which includes detailed oversight and accountability mechanisms that provide greater latitude for public oversight.

Since national courts lack the authority to prosecute criminals for breaking anti-corruption laws, combating the phenomenon is made more difficult by the possibility that corruption indicators have a transnational character. The study examines how corruption harms a country's ability to maintain economic stability. It is specifically proven that this effect is reflected in the expansion of the shadow economy, the distortion of the market economy's competitive process, the rise of inefficient private owners, and the decline in the effectiveness and utilisation of distribution. decrease in money allocated to the budget and worsening of the investment climate. Thus, the analysis of the index reveals the least corrupt countries (Denmark, Sweden, Switzerland, Finland, and Norway) and the most corrupt countries (Serbia, Northern Macedonia, and Montenegro). Therefore, the 2017 final study Global Corruption Barometer (2017) indicates that the most corrupt entities are the police and elected representatives. The survey found that religious leaders are the least corrupt. Brazil, Costa Rica, Paraguay, Greenland and Portugal are noted for having significant levels of anti-corruption awareness among their populations, in contrast to the Ukraine, Czech Republic, Slovakia, and Hungary, where awareness levels are comparatively lower. According to a Transparency International survey performed between January and March 2019, 54% of Brazilians and 49% of Costa Ricans saw an increase in corruption over the previous year.

Transparency International publishes an index to identify the least and most corrupt countries. Denmark, Sweden, Switzerland, Finland, and Norway were rated as low corruption countries, while Serbia, North Macedonia and Montenegro were rated as high corruption countries (Global Corruption Barometer, 2017). Instilling an anti-corruption culture in society and fostering an environment of zero tolerance for any sort of corruption is a critical step towards successfully combating this scourge. Additionally, Transparency International releases studies assessing the degree of corruption across a range of public and economic spheres. The most corrupt entities in the 2017 study were found to be elected officials and the police. Officials, business representatives, and locals trailed behind them (Global Corruption Barometer, 2017). The survey found that religious leaders were the least corrupt. It is a significant step for Kazakhstani public policy to prioritise the fight against corruption. However, to effectively fight corruption, comprehensive research and analyses are needed to determine the extent of corruption and systemic risks in different areas of society. As noted in the study by I. Dziublenko and N. Zhabinets (2024), understanding the relationship between corruption and other socio-political factors is essential for developing effective anti-corruption strategies and enhancing international cooperation.

People in some countries, such as Brazil, Costa Rica, Greenland, Paraguay, Paraguay, and Portugal, are actively fighting corruption. At the same time, the Czech Republic, Ukraine, Hungary, Slovakia, and other countries also face great difficulties in fighting corruption. The lack of statistical data on corruption offences can make it difficult to understand the full picture of the problem. It is therefore important to improve anti-corruption measures, including the strengthening of criminal laws, to fight corruption more effectively. In France, despite the implementation of different measures, the level of corruption in both the public and private sectors has shown no improvement. It is therefore recommended to strengthen the accountability of public officials for corruption and to investigate the liability of the business sector. It is important to have clear and precise criteria for defining a bribe. Contexts and circumstances should also be considered to ensure that justice is fair and effective (Global Corruption Barometer, 2017).

The study points to the need to develop specific mechanisms for modernising anti-corruption legal consciousness in Kazakhstan, especially among the younger generation, considering general trends and patterns of modernisation. The close work with the younger generation plays a fundamentally important role in forming anti-corruption legal awareness, as indicated by the National Development Plan of the Republic of Kazakhstan until 2025 (Decree of the President…, 2015). Educational, scientific, practical, informative-explanatory, and mass cultural measures are employed to form an active civic position and intolerance among the younger generation towards corruption. The OSCE Programme Office in Astana organised the "Youth Against Corruption" (2023) event to raise awareness and encourage action against corruption among young people. The criminalisation of bribery and the promise of bribes is an important step in the fight against corruption. However, more detailed research and analyses are needed to assess the effectiveness of law enforcement practice and to identify problems related to proving criminal behaviour. Analyses of the results point to the need to further develop anti-corruption measures and strengthen efforts to combat corruption in Kazakhstan. It is important to continue improving legislation, developing the civil service, and fostering ethical behaviour among civil servants. It is also important to pay attention to the social sphere and education to foster an anti-corruption culture in society.

Discussion

M.K. Zhusupbekova (2018) notes that the fight against corruption is of great importance and should be carried out by the whole society, for this purpose it is necessary to form an anti-corruption culture in the society, which specifically manifests itself in zero tolerance to any form of corruption. This means that society should express a clear and strong attitude towards corruption and prevent its spread. When corruption becomes entrenched within government bureaucracies, officials with vested interests benefit (Gulac *et al.*, 2022). Counteracting this trend requires fostering a culture of honesty among citizens, which serves as a crucial defense against its proliferation (Subačienė *et al.*, 2023). Kazakhstan aims to shift public perception and increase public condemnation of nepotism and corruption

in all its manifestations. The country has acknowledged the fight against corruption as one of its top goals for national policy. This creates a vicious circle where the national government cannot deal with corrupt officials, note A. Lopez-Claros *et al.* (2020). This is why Kazakhstan has prioritised the fight against corruption in its sovereign state policy. Kazakhstan needs to go from fighting corruption on a regular basis to a fundamental shift in public awareness and a deliberate rejection of nepotism and corruption in all its manifestations.

As G. Ferguson (2018) contends, it is critical to take ignorance of the nature, intent, or purpose of the bribe into account as a possible defence, subject to contradictory evidence. Indisputable proof of offering or consenting to accept a bribe ought to be grounded in precise intentions as opposed to nebulous anticipations or aspirations. This points to the need for a clearer definition and proof of criminal intent in corruption cases. G. Hambali (2020) conducted a study related to anti-corruption education such as the use of formative assessment methods in schools to evaluate anti-corruption education programmes in the learning process. A. Rinenggo *et al.* (2022) reviewed the literature on family, social, school, and national anti-corruption programmes. Furthermore, researchers L. Halimah *et al.* (2021) state that no study has precisely examined the implementation of anti-corruption teaching in higher education institutions, particularly in terms of student attitudes. Based on this, a proper study should be conducted to understand students' attitudes towards the introduction of anti-corruption education in civic education courses (Zulqarnain *et al.*, 2022).

Perception is a person's views or thoughts about other people, objects or events that exist. The concepts of S.P. Robbins *et al.* (2018) were used to study students' perceptions of anti-corruption education programmes. According to their theory, a person's perception can be influenced by several factors such as the perceiver (observer), set goals and situations. Each person has their unique characteristics, experiences, values, and beliefs that can influence their perceptions. For example, two different people may perceive the same event differently, and their previous experiences and attitudes may lead to different interpretations. The perceiver's goals can also influence their perceptions. If a person has a particular goal or interest in a particular object or event, they may pay more attention to certain aspects and seek out information that supports their goals. The context or situation in which perception takes place can also play an important role. Various factors such as the physical environment, social norms and expectations can affect a person's perception. For example, depending on the situation, a person may pay attention to different aspects or give more importance to certain details. Perception is a complex and individual process, and all of these factors can interact with each other and influence a person's final perception of other people, objects, or events.

One of the main goals of civic education is to build the knowledge base and skills needed to understand the political, social, and economic aspects of society. This allows students to develop critical thinking, analytical skills, and the ability to make informed decisions. Building a knowledge base is the highest perception among participating college students. According to Q. Li and L. An (2020), civic education plays a crucial role in fostering a rational society and educating individuals on how to become responsible citizens. In Indonesia, smart and good citizens are those who abide by existing Indonesian laws and incorporate Panchasila values into their lives, as labelled by E. Komara (2017) and E.S. Nurdin (2015).

Several countries, such as Azerbaijan, Georgia, Kyrgyzstan, Ukraine, and Moldova, have criminalised bribery and the promise of a bribe. Unfortunately, there is no publicly available information on the prevalence of their enforcement practices. Scholars have pointed out the difficulty of proving criminal behaviour. In line with the need to reduce corruption offences in Kazakhstan, the current criminal legislation is constantly being improved. The potential of criminal law to combat corruption needs to be re-evaluated because corruption in Kazakhstan impedes the creation of a true state guided by legal principles and the construction of the rule of law. As of right now, promises, offers of bribes, and permission to accept bribes are illegal under scientific legal frameworks, according to researchers and practitioners in Kazakhstan.

J. Wachs *et al.* (2019) emhasises that fragmented social networks, indicative of bonding social capital, correlate with higher corruption risk, while diverse external connections, indicative of bridging social capital, correlate with lower corruption risk. It is crucial to acknowledge that laws and anti-corruption organisations have a significant impact on increasing transparency and decreasing corruption, which is consistent with the significance of social capital that academics have emphasised.

According to L.M. Akimova *et al.* (2020), despite the recent favourable outcomes of these measures, corruption, particularly in the public and private sectors, is still at the same level. Hence, it is necessary to focus on strengthening the responsibility of civil servants for corruption and to strengthen the investigation of corporate structures. Therefore, there is a need to strengthen the accountability of public officials for corruption and to conduct more active investigations of corporate structures. R. Remeikienė *et al.* (2020) investigates the links between corruption and quality of life in the European Union, employing a comprehensive analysis of various socio-economic factors. The study finds a significant negative correlation between corruption levels and quality of life indicators, such as GDP per capita, public trust, and overall governance effectiveness. The conclusions emphasize the detrimental impact of corruption on economic and social well-being, recommending robust anti-corruption measures and policies to enhance the quality of life. The current results also agree on the need for continuous improvement of anti-corruption measures and the importance of international cooperation in combating corruption. Criminal and legal aspects of countering corruption in the current conditions in Kazakhstan are important factors in combating this phenomenon. Kazakhstan has developed and adopted several laws and regulations that are aimed at countering corruption. For instance, the Criminal Code of the Republic of Kazakhstan contains articles on bribery, abuse of power, illicit enrichment, and other corruption offences (Abdrasulov *et al.*, 2024).

The issue of international cooperation in the fight against corruption can also be touched upon. It is important to note the role and importance of international organisations such as the UN, The World Bank, and Interpol in supporting Kazakhstan in this area, as well as the exchange of experience and transfer of knowledge with other countries (Kostiuk

& Drok, 2024). It is underlined how crucial it is to fight corruption and how important it is to instill an anti-corruption culture in society. The study by J. Keneck-Massil *et al.* (2021) investigates the relationship between corruption, income inequality, and political power distribution across 172 countries from 1975 to 2017. The authors discover that, while lesser corruption correlates with lower income disparity internationally, this link is reversed in developing nations. When compared to current findings for Kazakhstan, both studies emphasise the necessity of strong legal frameworks and efficient anti-corruption initiatives. It should be noted that legislative acts and anti-corruption institutions play an important role in promoting transparency and combating corruption.

It is also noted that corrupt officials have an interest in bureaucratising the government and when corruption becomes an institution, it creates a vicious circle (Kurhan *et al.*, 2023). There is a need to improve criminal legislation and to establish strict measures to curb corruption, such as injunctions. It is also worth noting the lack of a scientific legal framework to criminalise promises, offers of bribes and acceptance of bribes in Kazakhstan. The fight against corruption in Kazakhstan is one of the main priorities of state policy. Kazakhstan has developed and adopted several laws and regulations aimed at combating corruption, including a criminal code with relevant articles. However, an important issue remains the criminalisation of various forms of corruption and the identification of specific acts that should be criminalised, and appropriate penalties provided for. Problems with the application of the legislation in court practice also need to be discussed and resolved.

International cooperation, especially with support from organisations such as the UN, the World Bank and Interpol, plays an important role in the fight against corruption in Kazakhstan. Sharing experience with other countries is also significant. Building an anti-corruption culture in society and taking tough measures, including injunctions, are essential to curb corruption. An important challenge is the lack of a scientific legal basis for criminalising promises, offers of bribes and acceptance of bribes in Kazakhstan. This means that further research and development of appropriate legislative measures are required to effectively combat these types of corruption. Overall, the fight against corruption in Kazakhstan is an important priority, and to succeed, it is necessary to improve legislation, strengthen accountability, entrench an anti-corruption culture in society and develop international cooperation.

Conclusions

This study examined the criminal and legal aspects of combating corruption in Kazakhstan, analysing the current regulatory framework, social determinants, and effectiveness of anti-corruption measures. The research highlights that, while Kazakhstan has made significant strides in developing anti-corruption legislation and institutions, challenges remain in effectively implementing these measures and addressing the root causes of corruption.

The study of social determinants of corruption in Kazakhstan reveals a complicated interaction between economic development, democratic norms, and civil freedoms. Despite moderate economic growth, Kazakhstan's low rankings on indices of human rights, electoral democracy, and civil freedoms are associated with higher levels of corruption. This analysis demonstrates that economic development alone is insufficient to effectively combat corruption; instead, enhancing democratic procedures and defending civil rights are critical to reducing corruption.

An examination of Kazakhstan's anti-corruption laws reveals that social considerations are taken into account when fighting corruption. These regulations seek to strengthen civil service integrity, address financial transparency, and foster an anti-corruption culture. The laws do, however, not completely address the fundamental problems of limited civil freedoms and weak democratic processes found in the social determinants analysis, even though they do create frameworks for accountability and transparency. The legislative framework serves as a platform for anti-corruption activities, but it lacks comprehensive measures to build democratic institutions and preserve civil freedoms, both of which are required to effectively combat corruption. This gap indicates the need for more legislative reforms that directly address the social and political variables that contribute to corruption in Kazakhstan.

Further research in this area should look into the effectiveness of anti-corruption measures, the impact of corruption on economic security and social consequences, international ethical and cultural issues, and innovative approaches, all with the goal of improving understanding and developing more effective anti-corruption strategies.

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Conflict of interest

None.

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Соціальні детермінанти корупції та правові методи протидії їй в сучасних умовах

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Анотація. Корупція є глобальною проблемою, що підриває соціальну, економічну та політичну стабільність у багатьох країнах світу. Казахстан, як країна, що швидко розвивається, усвідомлює згубну роль корупції в суспільстві і робить значні кроки для боротьби з цією проблемою. Метою дослідження було вивчення процедур, що використовуються для розслідування та притягнення до відповідальності за корупційні правопорушення. Для досягнення поставленої мети було використано такі методи: аналіз законодавства, догматичний метод, методи юридичної герменевтики та порівняння, кількісний аналіз. Розглянуто законодавчі документи, звіти та інші джерела, пов'язані з корупцією та протидією їй у Казахстані; досліджено роботу антикорупційних інституцій: проведено аналітичну роботу з вивчення ролі та діяльності антикорупційних інституцій у Казахстані та визначено ключові соціальні детермінанти корупції в країні. Висвітлено основні законодавчі акти, прийняті Казахстаном для боротьби з корупцією, та їх вплив на суспільний та правовий простір. Можна зробити висновок, що прийняті законодавчі акти та діяльність антикорупційних інституцій позитивно впливають на боротьбу з корупцією та підвищення прозорості в країні. Зроблено висновок, що для оновлення законодавства та запровадження нових норм законодавець повинен провести ретельне дослідження соціальних детермінант корупції. Таким чином, практична значущість цього дослідження полягає в тому, що його теоретичні висновки можуть бути використані державними органами для вдосконалення боротьби з корупцією в Казахстані

Ключові слова: нормативно-правова база; антикорупційні заходи; кримінальна відповідальність; міжнародне співробітництво; відмивання грошей

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Legislative regulation of online and remote learning in higher education institutions

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Abstract. Online education is a significant part of the educational process in Ukraine, particularly with the onset of the COVID-19 pandemic and, in 2022, a full-scale war, which determines the relevance of research on the regulatory framework to ensure the quality, accessibility and inclusiveness of distance education. The study aimed to address and evaluate the legislative regulation of distance learning in higher education institutions. The study analysed regulatory documents and statistical data from education authorities in Ukraine. The study determined that the existing legislation does not fully meet the requirements of the 21st century and needs to be updated and integrated with new provisions that consider the specifics of digital education. The study established that the existing legal norms do not guarantee equal access to educational resources for all students, especially in the context of distance learning. This underscores the need for legislative changes to ensure that all students have equal access to the necessary materials and technology, regardless of their socio-economic status or place of residence. For instance, the Law of Ukraine No. 2145-VIII "On Education" does not contain sufficiently clear provisions that would oblige educational institutions to provide technical support for distance learning. The analysis of the Law of Ukraine No. 2145-VIII "On Education" shows that the regulatory framework does not include quality standards adapted to distance learning. The results of the study highlight the need to develop comprehensive legislation that would cover all aspects of distance and online learning. This includes harmonisation

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of national regulations with international standards, introducing flexible quality control mechanisms, and supporting equal access to educational technologies. For instance, the experience of Germany, with its regional laws that detail general federal requirements, can serve as an example for the development of such regulations in Ukraine. The practical significance of the study is to develop recommendations for improving the legislative framework for online and distance learning in higher education institutions

Keywords: information society; legal support; e-education; digital educational platforms; virtual reality

Introduction

In the context of globalisation and the rapid development of technology, the education system is undergoing significant transformations. The COVID-19 pandemic, which began in 2019, has forced educational institutions around the world to quickly switch to distance learning. In Ukraine, these processes were further complicated in 2022 by the Russian full-scale war against Ukraine, which highlighted the importance of creating an effective regulatory framework to ensure the quality, accessibility and inclusiveness of distance education.

The research problem is determined by the lack of clear standards and quality criteria for online and distance learning, which creates risks for the educational process, making it difficult to ensure the same conditions and learning outcomes in different educational institutions. Moreover, the issue of accessibility is particularly relevant in the context of social inequality and differences in technical support for students, which needs to be considered in legislation to ensure equal opportunities for all. In addition, the inclusiveness of learning requires particular attention, as the distance learning format can both create new opportunities for people with disabilities and create new barriers that need to be considered and overcome (Kulyk, 2023).

One of the main challenges is ensuring high-quality distance education. The lack of clear standards and quality criteria for online learning, in turn, leads to a decrease in the level of knowledge and skills of students. The relevant issue was addressed by O.B. Kosheleva *et al.* (2022). The authors concluded that online learning provides students with free access to knowledge, and the ability to choose higher education institutions (HEIs) regardless of geographical location and study at a convenient time and their own pace, but this choice negatively affects the quality of knowledge gained. K. Dzhedzhera (2023) shares a similar opinion. The author emphasises the need to ensure the quality of distance learning through the adoption of information and communication technologies (ICTs), additional intellectual and time costs for teachers, as well as increasing the motivation of teachers through the promotion of distance technologies.

As the world is rapidly changing under the influence of technological, social and economic factors, it is necessary to combine the efforts of various parties to create a high-quality and effective educational process (Khmelnytska & Tkachenko, 2023). Government authorities play a key role in creating the regulatory framework and funding educational programmes. They should provide adequate support to educational institutions, promote innovation and the introduction of the latest technologies in the educational process. A related issue is also raised by A.A. Oleshko *et al.* (2021). The authors conclude that combining the efforts of all these parties will help create conditions for students to fully develop both general and professional competencies. V.M. Kuharenko and V.V. Bondarenko (2020) investigated theoretical and methodological approaches to solving an important problem, distance learning. An analysis of various examples of distance learning demonstrated that effective planning and implementation of the educational process during a crisis requires not only creative approaches but also serious organisational measures. These measures should be implemented not only by the educational institutions themselves but also at the highest levels of management. S. Rzhechytska (2022) highlights the peculiarities of educational management in the context of distance learning, as well as a comprehensive comparative analysis of distance education in artistic higher education institutions. The study determined the effectiveness of distance education, outlined the advantages and disadvantages of such education, and noted the need for legislative support of this learning format.

With the development of distance learning, the knowledge control system has undergone major changes. It became possible to conduct online exams and tests that students could complete from any location. The respective issue was studied by O. Nalyvaiko and K. Kutsyna (2022). The authors addressed new approaches and methods of assessment, the structure of knowledge control institutions, integration into the higher education system, interaction with employers and the relationship between national development and the process of knowledge control. The study proposed to create independent centres for diagnosing educational achievements, which will initially operate under the auspices of the Ministry of Education and Science of Ukraine and later become independent regional centres. The main factor in the success of this concept is the adoption of a new law called “On Distance Education”.

European countries have diverse experiences in regulating online education. For instance, the UK has a Quality Assurance Agency (QAA) that sets standards for distance learning. In Germany, the legislation includes provisions on e-learning that regulate requirements for programmes, technical support and data protection. M.M. Tereshchuk (2022) analysed the theoretical aspects of legal regulation, defined the legal status of distance education in Europe and addressed potential improvements. Based on the analysis of national and international legislative acts, as well as EU strategies, the researcher puts forward proposals for improving legal regulation to ensure the quality, accessibility and inclusiveness of distance education in Europe. In this context, N. Paziura (2023) addressed the peculiarities of ensuring the quality of education in the countries of the East Asian region, in particular, different approaches to creating conditions for the provision of quality educational services, legislative support for reforms and trends in the development of higher education. The study conclusions show that countries in the region are striving to meet international standards to improve academic mobility and trust in the quality of education, using similar quality assessment mechanisms, but have different regulatory bodies and approaches to the accreditation of educational programmes. However, there are still issues that have not been studied in previous research,

namely, the analysis of regulations governing the process of distance education in higher education institutions.

The study aims to review the current legislation in the field of higher education on the regulation of distance learning. The objectives of the study were to identify key challenges and problems related to the organisation of online and distance learning in higher education institutions, as well as to determine the prospects for regulatory regulation in this area.

Materials and methods

The legislative acts of Ukraine related to this area were employed as primary sources to address the legislative regulation of online and distance learning in higher education institutions. Particular attention was devoted to the analysis of the provisions of the Law of Ukraine No. 1556-VII "On Higher Education" (2014) and other relevant regulations governing this type of educational process. Analysis of Law of Ukraine No. 1556-VII (2014) in the context of distance education defined the concept of distance education, as well as how the legislation regulates various aspects of this learning, from integration and quality of programmes to organisational requirements and financial support, which provided a comprehensive approach to the development of distance learning in Ukrainian universities.

The study first analysed the Constitution of Ukraine (1996), which is the main legal document governing the education system in the country. The analysis of the provisions of the Constitution of Ukraine (1996) revealed the basic legal principles for the educational system and how the country's main law supports the right of citizens to education, regardless of the form of education. Then, the Law of Ukraine No. 2145-VIII "On Education" (2017) was analysed. This law officially recognises distance learning as a full-fledged form of education. This determined its importance and potential for increasing the accessibility of education in modern society.

This study analysed data from international organisations to identify gaps and prospects for the development of the legislative framework. The study analysed data from the United Nations Educational, Scientific and Cultural Organisation (2020). This analysis determined the scale and global impact of the pandemic on traditional learning, which highlighted the importance of developing legislative solutions to regulate distance education in Ukraine. The next legal act that was studied in the research is the Order of the Cabinet of Ministers of Ukraine No. 286-2022-p "On Approval of the Strategy for the Development of Higher Education in Ukraine for 2022-2032" (2022). The analysis showed that the document lays a solid foundation for the integration and development of distance education as an important element of the higher education system. In addition, in the context of distance higher education, the Letter of the Ministry of Education and Science of Ukraine No. 1/9-576 "On the Temporary Transition to Distance Learning" (2020) and Letter of the Ministry of Education and Science of Ukraine No. 1/9-249 "On the Organisation of Current, Semester Control and Certification of Education Applicants Using Distance Technologies" (2020) was analysed. The study of these bylaws and regulations was used to analyse the recommendations and requirements for organising and conducting distance learning in educational institutions aimed at ensuring the continuity of the educational process and improving the quality of online learning in the context of the COVID-19 pandemic.

Law of Ukraine No. 2155-VIII "On Electronic Identification and Electronic Trust Services" (2017) was also addressed in the context of distance education. This law provides legal grounds for secure identification of participants in the educational process and recognition of the legal force of electronic documents. The analysis of this law formulated reasonable recommendations for improving e-services and technologies that are critical for the organisation of effective distance learning.

Results

Distance learning has become an integral part of the educational process in higher education institutions around the world. This training format began its development even before the COVID-19 pandemic, but it was the global health crisis that significantly accelerated its implementation and widespread adoption. Due to the quarantine restrictions and the need to ensure the continuity of the educational process, HEIs were forced to quickly switch to a distance format, which became a challenge but also opened new opportunities for the educational system.

The first attempts to organise distance learning date back to the mid-20th century. During this period, distance learning courses were introduced that used traditional means of communication, such as mail and television. This allowed students to receive learning materials, complete assignments, and communicate with instructors without physical presence at the institution (Dhawan, 2020). For instance, some universities sent printed materials through the mail, and television was used to broadcast lectures and curricula. While this approach has expanded access to education, it was limited by a lack of interactivity and quick feedback between students and teachers.

The breakthrough in distance learning came with the development of the Internet and digital technologies in the late 1990s. The emergence of the global web created new education opportunities, allowing for interactive online courses and learning platforms that provided access to materials at any time and from anywhere in the world. This was made possible by rapid advances in information and communication technologies, including the development of web technologies, and multimedia and video conferencing tools. In the late 1990s and early 2000s, the first online education platforms appeared. They offered not only access to learning materials, but also interactive elements such as discussion forums, video lectures, and knowledge assessment systems (Bozkurt & Sharma, 2020). These innovations accelerated the development of distance learning, making it increasingly popular among students around the world. Distance learning has evolved from an alternative way of acquiring knowledge into a full-fledged form of education that competes with traditional teaching methods.

Online education continues to expand its horizons by introducing the latest technologies, such as artificial intelligence, and virtual and augmented reality, which further enrich the learning process and make it more accessible and effective (Villegas-Ch *et al.*, 2024). Before the COVID-19 pandemic, many HEIs were already actively using distance learning elements in their programmes. This allowed students who could not attend classes in the traditional format for various reasons to continue their studies. However, most educational institutions still prefer traditional face-to-face classes.

The COVID-19 pandemic, which broke out in late 2019, has become one of the most serious challenges for the global education system. This period was marked not only by the healthcare crisis but also by fundamental changes in the educational process. The pandemic has become a catalyst for an accelerated transformation of educational practices that would normally take much longer. The rapid spread of the coronavirus has forced many governments around the world to introduce strict quarantine measures, including the closure of schools and universities, to stop the spread of the virus. These measures led to a sudden and massive shift to distance learning (Bonal & González, 2020). According to United Nations Educational, Scientific and Cultural Organisation (2020) at the peak of the pandemic, more than 1.5 billion students from all continents were forced to interrupt their traditional education due to the closure of educational institutions. This unprecedented challenge forced educational institutions to adapt quickly and find new ways to ensure the continuity of the educational process. Distance learning has become the only real alternative to maintain access to education during the global crisis. To support the learning process in conditions of limited physical contact, educational institutions around the world rapidly integrated a variety of digital tools and platforms (Dhawan, 2020). These platforms made it possible to conduct lectures, seminars and discussions in real-time, creating the illusion of being in the classroom. In addition, learning management systems such as Moodle, Blackboard and Canvas are widely used. These systems provided centralised management of training materials, tasks and assessments, which facilitated the organisation of distance learning. Teachers and students were forced to quickly adopt new technologies and adapt their teaching and learning methods to the online format (Chetty *et al.*, 2020). Such actions required additional effort and time but maintained the continuity of the educational process.

While distance learning has become a necessary response to the crisis, it has also revealed several challenges. Not all students had equal access to technology and the Internet, which created significant barriers to participation in the learning process. Problems with the quality of communication, lack of proper equipment and unfavourable home conditions significantly hampered the learning process for many students. Moreover, many teachers faced difficulties in adapting their courses to the online format. They had to rethink teaching approaches to ensure interactivity and student engagement and develop new assessment methods to suit the distance format (Bao, 2020). However, the pandemic also accelerated innovation and experimentation in education. It stimulated the introduction of the latest technologies, such as virtual and augmented reality, adaptive learning and artificial intelligence. These technologies have opened new opportunities for personalising learning, increasing its effectiveness and accessibility.

The impact of the pandemic on education was not limited to one country or region. It was a global crisis that required international cooperation and exchange of experience. Governments, educational institutions, and technology companies have joined forces to develop and implement solutions that preserve access to quality education. Many countries have stepped up their efforts to develop national infrastructure for distance learning, providing schools and universities with the necessary resources and support (Hodges & Fowler, 2020). Since 2020, distance learning has become an integral part of the educational landscape. The experience gained during the pandemic has become an important lesson and an incentive to further develop and improve the education system, making it more flexible, accessible and inclusive. Legal and regulatory frameworks are a key element for integrating distance learning into the higher education system and its effective functioning.

The Constitution of Ukraine plays a fundamental role in shaping the legal framework of the country's educational system. Article 53 Of the Constitution of Ukraine (1996) proclaims the right of everyone to education, stating that "complete general secondary education is compulsory". According to this article, the state guarantees accessibility and free education in state and municipal educational institutions and undertakes to promote the development of education at all levels, including higher education. In the context of distance and online learning in HEIs, Article 53 of the Constitution of Ukraine (1996) becomes a fundamental principle that requires the adaptation of the educational system to the latest technologies and learning environments that have emerged since 2020. Information technology is fundamentally changing teaching methods and access to knowledge. Article 53 emphasises the need to ensure accessibility of education, which in the 21st century is increasingly linked to the integration of distance learning. The COVID-19 pandemic necessitated a rapid transition to distance learning, which has highlighted the need to adapt legislation to new realities. Ukrainian legal framework is gradually expanding to meet the demands of the digital age.

Thus, Law of Ukraine No. 2145-VIII "On Education" (2017) sets forms of education, including distance learning (Article 9). Article 53 of the relevant law establishes the rights and obligations of persons receiving education, namely, persons receiving education may register on state information resources and platforms for distance learning on their own or with the help of their legal representatives. In addition, during martial law, an emergency or a state of emergency declared following the procedure established by law, the state provides special guarantees for students and employees of educational and research institutions. This applies to both those who remained at their place of study or work and those who were forced to change their place of residence due to circumstances caused by the special period. Regardless of the current place of residence, all participants in the educational process (students, teachers, researchers) have the right to continue their studies or work. The educational process can be organised in a remote form or in another format that is safe for all participants. This guarantees the possibility of continuing education and research in safe conditions adapted to current risks and circumstances (Article 57-1).

The main document regulating the activities of higher education institutions in Ukraine is the Law of Ukraine No. 1556-VII "On Higher Education" (2014). This law defines the legal, organisational and financial framework for the functioning of the higher education system in Ukraine. Article 49 denotes the possibility of obtaining higher education in various forms, including distance learning. According to Article 49 Law of Ukraine No. 1556-VII (2014), distance learning is a form of education that focuses on the individual needs of each student and takes place in conditions where teachers and students are at a considerable distance from each other. This process is organised through specialised platforms that use the latest psychological,

pedagogical, information and communication technologies to ensure effective interaction between all participants in the educational process.

Distance learning became critical during the COVID-19 pandemic and continued to transform the higher education system in Ukraine. The response to these challenges was the approval of the Order of the Cabinet of Ministers of Ukraine No. 286-2022-p "On Approval of the Strategy for the Development of Higher Education in Ukraine for 2022-2032" (2022) which sets directions and tasks for modernising the educational process, through the introduction and improvement of distance learning. This document defines the key tasks for higher education institutions and sets priorities to ensure the competitiveness of Ukrainian education at the international level. One of the most important aspects of the Strategy for the Development of Higher Education in Ukraine is the introduction of distance learning as an integral part of the educational system in the 21st century. The main objectives of this document in the context of distance learning are to provide higher education institutions with the necessary technologies and resources for distance learning. It also provides opportunities for teachers to develop their digital skills and learn the latest online teaching methods; develops and disseminates e-learning materials, courses and platforms accessible to all students; and overcomes barriers for students with disabilities and those living in regions with limited access to the Internet.

Based on constitutional principles, Ukraine is developing legislative norms that regulate the introduction and use of distance learning. In addition to the laws already mentioned, there are numerous regulations and governmental decrees that regulate this process in detail. Given the situation with the COVID-19 pandemic, the Letter of the Ministry of Education and Science of Ukraine No. 1/9-576 "On the Temporary Transition to Distance Learning" (2020), which deals with the temporary transition to distance learning, was issued. This document became a substantial guideline for higher education institutions and vocational schools, defining recommendations for organising the educational process under quarantine restrictions. The Ministry's letter emphasises the need to temporarily switch to distance learning due to the epidemiological situation in the country. The Ministry of Education and Science recommends that educational institutions temporarily switch to distance learning to minimise the risk of infection for students and staff. The document emphasises the need to ensure a continuous learning process, even in a distance format. This includes adapting curricula and teaching methods for online work. Ensuring the health and safety of students and teachers is a priority. The letter of the Ministry of Education and Science of Ukraine No. 1/9-576 (2020) calls for maximum adaptation of the educational process to the epidemiological situation.

Earlier, the Ministry of Education and Science has already provided detailed recommendations on the organisation of current and semester control, as well as certification of students in distance learning. These recommendations were set in the Letter of the Ministry of Education and Science of Ukraine No. 1/9-249 "On the Organisation of Current, Semester Control and Certification of Education Applicants Using Distance Technologies" (2020). The main aspects of these recommendations include that in distance learning, ongoing monitoring should be carried out through electronic learning management systems and other online platforms. Assessment should be transparent, with a clear definition of the assessment criteria, which ensures clarity for students. Semester exams and tests may be conducted in the format of online exams or tests using video conferencing technologies. Online tests with automatic scoring were recommended to simplify the assessment process. Regarding the certification of students, the defence of qualification works can be organised in a remote format using video conferencing, which allows for academic transparency and compliance with the requirements for defence. Documentation related to certification can be signed with electronic signatures, which simplifies administrative procedures.

Of the above, it is worth noting the Law of Ukraine No. 2155-VIII "On Electronic Identification and Electronic Trust Services" (2017) which creates a legal framework for the introduction and use of electronic identification means and electronic trust services in Ukraine. This law is an important element of the country's digital transformation, which has a direct impact on the development of distance education. Law of Ukraine No. 2155-VIII (2017) regulates the use of electronic means for identifying persons and confirming the authenticity of electronic documents, which are critical to ensuring the legitimacy and security of distance learning. In the context of distance education, electronic identification reliably confirms the identity of participants in the educational process, which ensures the accuracy of student registration for online courses and their participation in the educational process. The use of technologies such as BankID, MobileID or digital signatures helps to prevent fraud and forgery. The use of electronic identification simplifies students' access to online platforms and distance learning resources by providing automatic user authentication and data protection (Anger *et al.*, 2020). In addition, electronic trust services facilitate the legitimate settlement of contractual and legal issues in the educational process, including the signing of contracts between students and educational institutions, the registration of academic records, and other administrative documents. Law of Ukraine No. 2155-VIII (2017) significantly contributes to the development of distance education in the country. It creates a legal and technological framework for the safe and effective use of electronic technologies in the educational process. Introduction of the Law of Ukraine No. 2155-VIII (2017) allows higher education institutions to provide quality and affordable education to students, regardless of their location, and promotes Ukraine's integration into the global educational community.

The management of the educational process in higher education institutions is not limited to laws and regulations (van der Spoel *et al.*, 2020). Each university develops in-house internal documents that detail and adapt the general requirements to the specifics of its work, such as the Regulations on the organisation of the educational process using distance learning technologies (Regulations). For instance, the Regulations on the Use of Distance Learning Technologies at Danylo Halytsky Lviv National Medical University (2020) regulate in detail the organisation of the educational process, including requirements for the development of distance learning courses, methods of assessing students' knowledge and ensuring academic integrity. The document also defines the responsibilities of teachers and students to use digital platforms and tools for learning, as well as to ensure access to educational resources and support during distance learning.

Another example is the Regulations on the Organisation of the Educational Process Using Distance Learning Technologies at Zaporizhzhia National University (2020). The relevant document regulates that remote communication of participants in the educational process can be carried out using modern information and communication technologies, such as e-mail, messengers (Viber, Telegram), video conferencing (BigBlueButton Moodle, MS Teams, ZOOM, Google Meet), as well as forums, chats and audio conferences. They complement the main tools of the Electronic Learning Support System (ELS) of ZNU. The final semester control (tests, examinations, defence of course projects, internship reports) can also be conducted remotely through the Electronic Learning Support System of Zaporizhzhia National University or other means of synchronous or asynchronous communication, including video conferencing systems. Thus, the Regulation on the Organisation of Distance Learning not only regulates the current educational process but also supports the strategic development of the university in the field of innovation and digitalisation.

The EU plays an important role in shaping education and digitalisation policy. Although education policy remains the responsibility of individual member states, the EU actively supports the development of distance learning through various initiatives and programmes. The European Commission has implemented the Digital Education Action Plan (2021-2027) (2020), which aims to promote the digital transformation of education in Europe. The main objectives of the plan include raising the level of digital skills among EU citizens, providing access to digital tools and learning platforms, and supporting innovation in education through research and project funding.

The Horizon Europe (European Commission, n.d.) and Erasmus+ (National Erasmus+ Office in Ukraine, n.d.) programmes support the development of distance learning by funding innovative projects and cooperation between educational institutions. Horizon Europe (European Commission, n.d.) focuses on research and innovation, including projects in the field of digital education, while Erasmus+ (National Erasmus+ Office in Ukraine, n.d.) offers funding for exchanges and joint projects between universities, in the field of online learning. The General Data Protection Regulation (GDPR) (2016) significantly impacts distance learning. All educational platforms and institutions providing online education must comply with the GDPR requirements for the collection, processing and storage of personal data of students and teachers.

Each EU member state has its laws and regulations governing distance learning. In Germany, the system of legal regulation of distance learning is complex and includes several levels of implementation and control. At the federal level, the main legal act is Law for the Protection of Participants in Distance Learning (1976) which sets out general quality standards and requirements for distance education providers. The Law for the Protection of Participants in Distance Learning (1976) provides a clear legal framework for distance learning, covering all aspects of the process. This avoids the fragmentation often observed in the Ukrainian education system, regulation through orders and letters of the Ministry of Education and Science, where certain issues may be addressed in an unsystematic manner or remain unresolved. Article 1 of the Law for the Protection of Participants in Distance Learning (1976) sets out the main provisions of the law and covers all forms of distance learning, establishing uniform rules for their operation, which in turn creates an integrated legal framework that ensures the sustainability and transparency of regulation.

The Law for the Protection of Participants in Distance Learning (1976) establishes requirements for transparency of information about educational programmes delivered in a distance format. These requirements include the obligation to inform students about all conditions of study, including fees, programme content and assessment methods. Article 3 of the Law for the Protection of Participants in Distance Learning (1976) obliges distance learning providers to provide detailed information about the programme, including all costs, which allows students to make informed decisions. Compared to Ukrainian practice, with gaps in the provision of full information about educational services, the Law for the Protection of Participants in Distance Learning (1976) provides greater transparency.

The Law for the Protection of Participants in Distance Learning (1976) establishes uniform quality standards for all forms of distance learning, which ensures the high quality of educational programmes. This contrasts with the Ukrainian system, where quality standards can vary depending on the institution or type of programme. Article 7 of the Law for the Protection of Participants in Distance Learning (1976) requires that all distance learning programmes be accredited and meet established quality standards. This ensures that all programmes meet the same requirements, which increases the credibility of distance education. Moreover, the Law for the Protection of Participants in Distance Learning (1976) provides for the establishment of independent bodies to control and monitor the quality of distance learning. This ensures ongoing oversight of compliance with standards and conditions of education, which is a more structured approach compared to the Ministry of Education and Science inspections. Article 5 of the Law for the Protection of Participants in Distance Learning (1976) creates the legal framework for the Federal Agency for Distance Learning, which is responsible for accrediting programmes and monitoring their quality. This ensures constant monitoring and accountability of educational programmes.

Hence, the Law for the Protection of Participants in Distance Learning (1976) offers a structured and comprehensive approach to the regulation of distance learning, ensuring transparency, uniform quality standards and ongoing monitoring. Implementation of a similar approach in Ukraine could significantly improve the legal regulation of distance education, increase its accessibility and quality, and increase students' trust in distance education programmes.

In Germany, each federal state has a certain degree of autonomy in regulating educational processes, including distance learning. In addition to the national legislation, the federal states set internal regulations and standards that complement the general requirements. These regulations cover additional requirements for the quality of learning, assessment and quality control procedures, as well as specific requirements for the content of distance learning courses. For example, the Act on Universities in Baden-Württemberg (2005) covers requirements for distance learning, including provisions on electronic resources and technologies to ensure the quality of distance learning. For example, paragraph 32, section 2 states that universities can deliver study programmes in an electronic format. In doing so,

they must ensure the quality of learning and the fulfilment of examination requirements. The Hessian Higher Education Act (2021) provides for specific requirements for distance learning, including technological infrastructure and student support. Paragraph 18, Section 3 states that universities may use e-learning platforms and digital media to support teaching and learning. In doing so, technical infrastructure and didactic support must be provided. The Law on Universities in the State of Berlin (2011) regulates distance learning, focusing on the quality of learning and student support through digital means. Thus, Paragraph 11, Section 4 states that universities must ensure that the same quality standards apply to distance learning or online teaching as to traditional teaching. Thus, the system of legislative regulation of distance learning in Germany is based on the interaction between the federal and regional levels of government, which allows for the effective functioning of this form of education in the country.

German experience in legislative regulation of distance education can significantly contribute to improving the situation in Ukraine. Germany has a developed system of legislation that regulates all aspects of distance learning, from setting quality standards and monitoring their compliance to accreditation and licensing of educational institutions (Grewenig *et al.*, 2021). The streamlining of the legislative environment through the introduction of a national law on distance learning is the first step that could be useful for Ukraine. Such a law could define the basic principles, responsibilities and rights of the participants in the process: students, teachers and educational institutions. Another step that can be taken from the German experience is the introduction of an accreditation and licensing system for educational institutions that provide distance learning courses. This contributes to a higher quality of education and trust in the institutions involved in this type of education. However, the quality control system for curricula and resources used in distance learning should be addressed. In Germany, such control is exercised through the establishment of learning standards and corresponding requirements for course content, which ensures that students receive a quality education.

In addition, it is necessary to implement initiatives to support digital infrastructure that facilitate access to distance learning for all social groups and regions of the country. This includes the development of broadband and supporting access to digital technologies for students and teachers (Zancajo *et al.*, 2022). Ukraine could also address the experience of digital data management and privacy, which is a critical aspect of distance learning. The use of German practices in the field of personal data protection can help avoid privacy violations and ensure data security in the learning process. In general, the implementation of German experience in the legislative regulation of distance education in Ukraine has the potential to improve the quality of education, ensure equal conditions for all participants in the educational process and promote the development of digital education in the country. Thus, education, especially in the context of rapid technological development and global challenges such as the COVID-19 pandemic, requires the adaptation and development of new forms of learning. One of these forms is distance learning, which is becoming increasingly popular and necessary. However, the existing legal framework governing distance higher education in Ukraine is not specific and outdated enough to fully cover all aspects of this form of education in higher education. Therefore, there is an urgent need to develop and adopt a new law specifically dedicated to higher distance education.

Distance learning provides an opportunity to obtain higher education for a wide range of people, including those who live in remote regions, work or have mobility restrictions. The law on distance education should promote equal access to quality education for all citizens. The new law may create conditions for the development of lifelong learning, allowing students to improve their qualifications and acquire new skills at a time convenient for them. In addition, clear quality standards need to be established for distance learning to ensure that it is traditional face-to-face education. This includes requirements for curricula, teacher competencies, assessment methods and technical support. The law should include mechanisms to ensure academic integrity in distance learning, preventing cheating and plagiarism. An important issue is the rights and obligations of participants in the educational process it is necessary to define the rights of students in distance learning, including access to educational materials, participation in the educational process, technical support and the possibility of feedback from teachers. It is also necessary to protect the rights of teachers, including ensuring adequate working conditions, support in the use of technology and opportunities for professional development. The law should provide for financial support mechanisms for the development of distance education, including investments in technological infrastructure, learning resources and teacher training. It is necessary to ensure that students and teachers have access to the necessary technologies and resources for effective distance learning.

The adoption of the new Law on Higher Distance Education is a necessary step towards modernising the Ukrainian education system. This law will create favourable conditions for the development of distance education, ensure its quality and accessibility, protect the rights of students and teachers, and support the introduction of innovative technologies. It will also facilitate the international integration of Ukrainian higher education, increasing its competitiveness at the global level.

Discussion

The use of the latest ICTs in education created a special form of learning known as distance learning. This learning model provides knowledge and competencies at a level no less high than in the traditional educational process. One of the key advantages of distance learning is its flexibility: students can study at a time and place convenient for them, choosing the intensity and pace of learning according to their personal needs and capabilities. In the global context, distance learning has become a widespread phenomenon. In many countries, this form of learning is being actively integrated into educational systems due to its ability to adapt to the requirements and challenges of the 21st century. However, not all countries have the same level of implementation of this form of learning.

V. Milićević *et al.* (2021) noted that in the Republic of Serbia, only 18 higher education institutions have accredited distance learning programmes. This situation indicates a certain lagging behind more developed countries, where distance learning has already become an integral part of the educational system. Despite the existence of a legal framework for the implementation of distance learning, Serbian

universities face numerous challenges in this process. The National Authority for Accreditation and Quality Assurance of Higher Education in Serbia confirms the existence of legal conditions for the accreditation of distance learning programmes. However, the real situation shows that the pace of implementation of this form of education remains slow. Similar to the situation in Serbia, Ukraine also faces challenges in the area of legislative regulation of distance learning. Although there is a legal framework for distance learning in Ukraine, it remains fragmented and incomplete. This study has identified the need to improve existing laws and introduce new regulations that would facilitate faster and more effective implementation of distance learning. The main difference between the interpretations and conclusions of this study and those of the researchers is determined by different contexts of national education systems. While both studies acknowledge the importance of legislative regulation of distance learning, the conclusions of the researchers addressed Serbia's lagging behind developed countries. The same study emphasises the need to adapt Ukrainian legislation to international standards and the realities of digital learning. This difference in interpretation is due to the peculiarities of national educational systems and the level of readiness to introduce new educational technologies.

It is worth agreeing with the results of study A. Naim and F. Alahmari (2020), emphasise the importance of implementing learning management systems such as the Blackboard platform at King Khalid University. They emphasise that for the successful integration of e-learning, clear standards of quality and compatibility with traditional teaching methods are necessary. This study also concludes that the development of such standards is critical to ensuring the effective functioning of distance education in Ukraine. P. Shi *et al.* (2021) emphasise that the COVID-19 pandemic has become a catalyst for intensifying legislative changes in the field of personal data protection in various countries, including the EU, the US, Japan, South Korea and China. They note that these countries have adapted their legislation to meet the new challenges posed by digital technologies and big data. Similar to the results of this study, the researchers' findings point to the need to adapt legislation to new digital realities. Both studies emphasise the critical importance of updating legislation to protect personal data, especially in the context of the proliferation of online education. However, this study focused on assessing Ukrainian legislation in the context of distance learning, while the researchers analyse more broadly the adaptation of legislation to new technological challenges in different countries around the world. However, it is worth agreeing with the conclusions of the researchers on the importance of adapting legislation to the new challenges of the digital world. The protection of personal data in the context of online education is extremely relevant, and the examples of countries that have already updated their laws serve as important guidelines for Ukraine (Mentukh & Shevchuk, 2023). The implementation of such strict standards as the GDPR in the EU could significantly improve the level of data protection in Ukraine.

The impact of digital technologies on privacy and personal data protection in online education is obvious. Considering the experience of other countries, it is important to emphasise that adapting laws to the realities of the digital age is key to ensuring data security in the educational environment. Regulation and privacy protection remain relevant as technology continues to evolve and ensuring the security of personal data becomes an increasingly critical necessity. B. Williamson *et al.* (2020) argue that the process of datafication (turning information into data) is not the root cause of these problems, but rather it significantly exacerbates, reproduces and expands them. The impact of data in higher education is manifested through the infrastructure, software, measurement and algorithms that make up the digital architecture of universities. The COVID-19 pandemic, which has led to a massive shift to online learning due to university closures, has further increased this pressure. In the context of online higher education, these challenges and opportunities are particularly relevant. Universities can use data to improve the quality of education, provide an individualised approach to students, and increase accessibility (Chrysostomou, 2022). However, they must also be careful not to allow data to become a tool for increasing inequality or lowering academic standards. The balance between using data to improve the educational process and preserving the democratic values of universities is a major challenge for modern (post-2020) higher education in the digital era (Kuznietsova, 2024). Both this study and the conclusions of the researchers, noted that digitalisation and the use of data in higher education significantly exacerbate existing problems and challenges, especially in the context of the COVID-19 pandemic. Both studies recognise the need to improve infrastructure and software to ensure the efficiency and quality of distance learning. However, this study focuses more on the legislative aspects and the need to create and adapt a legal framework for regulating distance learning in Ukraine. At the same time, the researchers address the technical and algorithmic aspects of the impact of datafication on universities and the educational process in general. It is worth agreeing with the conclusion of the researchers on the importance of using data properly in higher education. Data can significantly improve the quality of learning and increase access to education. However, A. Kuznietsova (2024) do not focus enough on the need to update the legislative framework to ensure effective implementation and regulation of distance learning. This study emphasises the importance of creating comprehensive legislation to support online education, which is critical to ensure the quality and accessibility of learning.

The development of legislation regulating distance learning at universities is necessary to ensure the efficiency and quality of the educational process. Study Y. You (2020) analysed the impact of online learning on the development of competencies in students studying Choreography and Dance. In particular, the author explores how the online format affects the development of the necessary skills and knowledge that meet the requirements of professional practice in this field. The results show that distance learning in choreography has significant potential, opening up access to high-quality programmes for students from all over the world. This is particularly important for those who have not previously been able to access such programmes due to geographical or financial constraints. However, to fully utilise this potential, the quality assurance system for online education needs to be significantly improved. Online programmes should be carefully designed and adapted to the specifics of the distance format to ensure a high level of learning. This includes clearly defining the competencies to be delivered by the programme and establishing mechanisms for their effective monitoring. Government regulation plays a key

role in setting quality standards that all HEIs offering online courses must adhere to. A study by the researcher also confirm the importance of tailoring online programmes for specific disciplines, such as choreography, which demonstrates the need for clear competence definitions and quality control mechanisms. This underlines that the legal regulation should address the specifics of different programmes to ensure a high level of learning regardless of the format. Thus, the development of the legal and regulatory framework is critical to ensure that distance learning not only meets professional standards but also contributes to the quality development of students' competencies. Legislation should provide for the integration of clear quality standards, support for the adaptation of programmes to the online format, and the establishment of effective control mechanisms to ensure that the potential of distance learning in higher education is successfully realised.

A similar opinion was expressed by A.M. Al-Abdullatif and A.A. Gameil (2020), who found significant gaps in the knowledge of undergraduate students about the elements of digital citizenship. While some students demonstrate ethical practices in the use of digital resources and compliance with digital laws, their overall knowledge and understanding of digital citizenship are insufficient. The main problems include the inability to verify the reliability and authenticity of digital resources, as well as difficulties in interpreting laws governing the use of digital technologies. The study showed that most countries face significant challenges in the field of state regulation of distance education. Despite the growing popularity of online learning and its importance in the 21st century, existing legislation often fails to keep pace with technological change and is unable to fully ensure the appropriate level of quality and access to education. Thus, the development of legislation governing distance learning is critical to ensuring a high level of education adapted to digital challenges. This will help prepare students to successfully navigate the digital world and provide them with the necessary competencies for their professional activities.

Conclusions

In the 21st century, the development of technology and globalisation are fundamentally changing traditional approaches to education. Online and distance learning are becoming increasingly popular forms of higher education, which requires adequate legislative regulation. The subject of this Article is the legislative regulation of online and distance learning in higher education institutions in Ukraine. The study aimed to identify the key aspects of the existing legal acts and compare them with international standards with the experience of Germany, to develop recommendations for improving the Ukrainian legal framework.

The study determined that the existing laws regulating distance and online learning are incomplete and outdated. Ensuring the high quality of educational programmes in online and distance learning is a complex task that requires a careful legislative approach. In Ukraine, the legislation, in particular, the Law of Ukraine No. 2145-VIII "On Education" and the Law of Ukraine No. 1556-VII "On Higher Education", provides only general provisions on the possibility of using distance technologies in education, without establishing clear standards and quality control mechanisms specific to the distance format. The imperfection of regulation is also manifested in the lack of detailed requirements for the assessment, licensing and accreditation of distance learning programmes, which creates legal uncertainty and needs to be improved to properly adapt the educational process to the digital era. For example, the experience of Germany, where the Law for the Protection of Participants in Distance Learning is in force, shows how the integration of clear quality criteria and student rights protection can effectively contribute to raising the standards of distance education. German legislation provides for strict regulation of distance education programmes, including mandatory accreditation of courses and specific requirements for content, assessment and certification, which can serve as an example for improving the Ukrainian legal framework.

The findings indicate that Ukrainian legislation requires significant improvements to adequately respond to the challenges of distance learning. An analysis of German legislative practice shows how clearly defined requirements and standards can improve the quality and efficiency of online education. Ukraine could learn from the practice of mandatory accreditation of distance learning courses, the development of detailed standards for content and assessment, and the introduction of mechanisms to protect students' rights in distance learning. The significance of the results obtained are identified areas for improving Ukrainian legislation in the context of distance education. Establishing clear standards and quality control mechanisms will increase access to quality education and ensure more reliable protection of students' rights. This is especially important in the context of the growing role of digital technologies in the educational process.

Further research in this area should address the development of specific recommendations for the implementation of international standards in national legislation and study the effectiveness of existing mechanisms for quality control of distance learning. It is also necessary to study the issue of adapting legislation to the rapidly changing conditions of the digital society, in particular, considering aspects of personal data protection and intellectual property.

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Conflict of interest

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Законодавче регулювання онлайн та дистанційного навчання в закладах вищої освіти

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Анотація. Онлайн-освіта стала вагомою частиною освітнього процесу в Україні, зокрема з початком пандемії COVID-19, а у 2022 році повномасштабною війною, що зумовлює актуальність дослідження нормативно-правової бази для забезпечення якості, доступності та інклюзивності дистанційної освіти. Метою дослідження було вивчення та оцінка законодавчого регулювання дистанційного навчання у закладах вищої освіти. Для досягнення мети були проаналізовані нормативно-правові документи, статистичні данні органів управління освітою в Україні. У ході дослідження було встановлено, що існуюче законодавство не повною мірою відповідає вимогам 21 ст. і потребує оновлення та інтеграції нових положень, які враховують специфіку цифрової освіти. Виявлено, що існуючі правові норми не гарантують рівний доступ до освітніх ресурсів для всіх студентів, особливо в умовах дистанційного навчання. Це підкреслює необхідність впровадження законодавчих змін, які забезпечать, щоб всі студенти мали рівні можливості доступу до необхідних матеріалів та технологій, незалежно від їх соціально-економічного статусу або місця проживання. Наприклад, в Законі України No. 2145-VIII «Про освіту» немає достатньо чітких положень, які б зобов'язували освітні установи забезпечувати технічну підтримку для дистанційного навчання. З аналізу Закону України No. 2145-VIII «Про освіту» вбачається, що нормативна база не включає адаптованих до дистанційного навчання стандартів якості. Результати дослідження підкреслюють необхідність розробки комплексного законодавства, яке б охоплювало всі аспекти дистанційного та онлайн-навчання. Це включає гармонізацію національних нормативних актів з міжнародними стандартами, впровадження гнучких механізмів контролю якості та підтримку рівного доступу до освітніх технологій. Наприклад, досвід Німеччини, з її регіональними законами, які деталізують загальні федеральні вимоги, може слугувати прикладом для розробки таких регуляцій в Україні. Практичне значення дослідження полягає у розробці рекомендацій для вдосконалення законодавчої бази онлайн та дистанційного навчання у вищих навчальних закладах

Ключові слова: інформаційне суспільство; правове забезпечення; е-освіта; цифрові освітні платформи; віртуальна реальність

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Legal regulation of inheritance of corporate rights under the laws of Ukraine and EU countries

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Abstract. The importance of studying this topic lies in the fact that in the context of social change and globalisation, which are taking place at this stage of society's development, the role of inheritance remains significant. The area of inheritance has always been and will be the most relevant in civil and commercial law. Therefore, inheritance will always be an object of practical and scientific research. The purpose of this article was to study and compare the legal regulation of inheritance of rights of legal entities under the laws of Ukraine and the EU countries. The methodological basis of the work was the general scientific methods of cognition, which include the methods of scientific abstraction, induction, deduction, logical generalisation and extrapolation. This article analysed the inheritance of rights of legal entities of various types. On the basis of this analysis, a conclusion was made about the relevance of addressing the problematic aspects of inheritance

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of rights of legal entities in Ukraine and the compliance of national legislation in this area with the legislation of the EU countries. A comparison of the legal regulation of corporate rights inheritance in Ukraine and the EU countries is made. The article dealt with the issues of inheritance of rights of legal entities in limited liability companies and joint stock companies. The article also highlighted the aspect of possible future changes in civil and commercial legislation. The study proposed amendments to the Civil Code of Ukraine in the area of inheritance of rights of legal entities. In particular, it was proposed to supplement the Civil Code of Ukraine with a new definition of the concept of "inheritance of rights of legal entities". The research also defined what rights may be inherited by legal entities. This work can be used as a tool for further research of the issues of inheritance of corporate rights within the framework of development and improvement of legislation on this topic

Keywords: civil legal relations; corporate law; corporate rights; corporation; legal entity; share in the authorized capital; harmonization

Introduction

The problems faced by corporate law are related not only to ensuring effective corporate governance or attracting new investors to the business sector, but also to the succession of certain rights, so the inheritance of corporate rights has been and remains quite relevant for 2024. This is a much more complicated task, and each case should be considered separately, as heirs, due to the lack of private interest in continuing the company's activities and skills, may create problems and cause damage to the company, its shareholders and clients.

Following the Association Agreement between the European Union and its Member States, on one part, and Ukraine, on the other part (2017), Ukraine has begun to implement the rules of European democracy and harmonize its legislation with EU law. Although Ukrainian legislation is in the process of adopting reforms, many changes are still needed to bring it closer to European standards (Yuzheka, 2023).

The problematic aspects of this topic are that during the process of determining the successor, the company may not be fully managed. The process may take a long time and this may lead to the depreciation of corporate rights. If it takes some time for the heir to come into possession of the inheritance (for example, if he/she lives abroad), or if the heir is unknown, the executor of the will has the opportunity to effectively protect the inheritance.

The practical and theoretical aspects of inheritance of corporate rights under the inheritance agreement were considered by M. Novikova (2021). The author highlighted certain aspects of the emergence of ownership of corporate rights in the course of the application of a hereditary agreement. Having compared the will and the inheritance agreement, she concluded that the inheritance agreement is a more perfect way to acquire corporate rights, which greatly simplifies the process of inheritance of corporate rights. I. Spasybo-Fatyeyeva (2023) focused on the inheritance of corporate rights after the death of a member of a limited liability company. In her work, she examined the following issues: death of a company member as a ground for termination of corporate legal relations, object of inheritance, corporate governance in the process of inheritance, legal regulation of acquisition of corporate rights, unification of rights acquired by the company's heirs.

The problematic issues arising in the process of inheritance of a share in the authorized capital of a limited liability company were investigated by O. Kukhariev (2021). In this work, he provided two ways in which the corporate rights of a participant are exercised after his death until the moment when the successor acquires the status of a participant in the company. Certain problematic aspects that arise when concluding an inheritance management agreement were identified in the work of H.A. Kaplina *et al.* (2021). One of the unresolved issues is the appointment of an inheritance manager when several heirs apply to a notary to issue a certificate for inheritance management. An inheritance management agreement is concluded to ensure the economic interests of the company in the period between the death of a shareholder and the entry of the heir into the company.

M. Kravchyk and O. Tur (2021) analysed in their study the legal nature of the inheritance contract, as well as determined the essential terms of this contract and the legal status of persons in accordance with the legislation of Ukraine and EU countries. The author determined the place of the inheritance contract in the system of civil law contracts in Ukraine. Having analysed the Ukrainian legislation, the researchers concluded that the inheritance contract should be classified as a contract of obligation, since this contract regulates the relations of transfer of property into ownership.

Thus, the purpose of the study was to analyse the peculiarities and problematic aspects arising in the process of legal regulation of inheritance of rights in respect of legal entities. In addition, it is worthwhile to analyse the differences between Ukrainian legislation and EU legislation in the area of inheritance of corporate rights and identify possible ways to eliminate difficulties arising in the process of exercising the right to inheritance.

Materials and methods

This Article examines the peculiarities and problematic issues of inheritance of corporate rights of Limited Liability Companies, Additional Liability Companies, and Joint Stock Companies under the laws of Ukraine and the EU. In particular, the Article analyses the status and compliance of the legislation on inheritance of corporate rights in Ukraine with EU law.

The research methodology included both general and special methods that complement each other. A scientific Article on the inheritance of corporate rights should include a comprehensive approach to research, the choice of methods that allow a comprehensive analysis of the chosen topic. In defining and formulating legal concepts, the formal and logical method of scientific research is used. This method is based on the application of logical operations and procedures to abstract concepts, definitions, and judgements.

In order to consider the causes of specific and general phenomena, the problems of regulating the area of corporate rights inheritance, to determine the specifics of its regulation in Ukraine and to study the experience of foreign countries, the comparative legal method of cognition was used. This method made it possible to study the approaches of

other countries to similar legal issues in the area of corporate rights inheritance, including the analysis of international treaties, conventions, and recommendations of international organizations.

The systemic approach of cognition was used in the course of consideration of the elements of the State guarantees of corporate rights inheritance which constitute their system. This system represents the activities of the State authorities aimed at regulating the inheritance of corporate rights and protecting the interests and rights of all participants in the process of exercising corporate legal personality regulated by law. The method of comprehensive analysis was used to formulate scientific definitions and conclusions. The method of comprehensive analysis integrates data and knowledge from various sources and disciplines for a more complete and accurate study of the research object.

The analytical method allowed for a deeper understanding of the phenomena and processes under study, interpretation of legal categories, formulation of definitions and outlining the procedure for inheriting corporate rights in Ukraine and the EU. The analysis of legal doctrine and court practice was carried out to identify the main principles, trends, and problems in the field of corporate rights succession.

In this paper, various legal acts were used to conduct the research, namely the Civil Code of Ukraine (2003), the Commercial Code of Ukraine (2003), Law of Ukraine No. 2275-VIII "On Limited Liability and Additional Liability Companies" (2018), Regulation (EU) of the European Parliament and of the Council No. 650/2012 "On Jurisdiction, Applicable Law, Recognition and Enforcement of Decisions and Acceptance and Enforcement of Authentic Instruments in Matters of Succession and on the Creation of a European Certificate of Succession" (2012), German Civil Code (1900).

To develop proposals for improving legislation, an effective option is to use the normative legal method. This method focuses on the study of existing legislation, its comparison with international standards or legislation of other countries, as well as the study of case law and scientific opinions on the topic. This method not only allows for an in-depth analysis of the existing regulatory framework, but also ensures a balanced approach to making changes that consider both national specifics and international standards. As a result, more efficient and fairer legal regulations can be achieved.

Results

Since the declaration of Ukraine's independence, the country has been undergoing ongoing legislative transformation. Accordingly, it is possible to observe changes in the regulatory framework of Ukraine, the formation of new branches of law, etc. As of 2024, the institution of inheritance has also undergone significant changes, especially over the past two decades. In this context, it is worth noting that since the adoption of certain legislative acts in the areas of entrepreneurship, business, securities and the stock market, etc., the Ukrainian legal system has introduced such an object of inheritance as corporate rights.

Scholars often debate the issue of corporate rights and their inheritance. These disputes are caused by the fact that there is currently no specific definition of the concept of "object of *inheritance*" and there is no definition of "corporate rights" in civil law, but it is present in commercial law (Aparov & Kovalenko, 2018; Saidakhrarovich *et al.*, 2020). There are other difficulties that will be considered in the course of further research.

In 2024, inheritance is one of the most important institutions of civil and commercial law. Therefore, the composition of the inheritance is of practical interest to researchers and is therefore the subject of many scientific studies. Article 1218 of the Civil Code of Ukraine (2003) states that inheritance includes all the obligations and rights of the testator that he had at the time of opening the inheritance and which did not cease due to his death. According to part 1 of Article 178 of the Civil Code of Ukraine (2003), objects of civil rights may be alienated or transferred from one person to another by inheritance or succession or otherwise, if they are not withdrawn from civil circulation, or are not restricted in circulation, or are not inalienable from a legal entity or individual. However, Article 1219(1)(2) of the Civil Code of Ukraine (2003) states that it is impossible to inherit non-property rights and rights to participate in companies, rights to membership in associations of citizens, unless the law or the constituent documents of these organizations provide otherwise.

This problem was attempted to be solved after the adoption of the Law of Ukraine No. 2275-VIII "On Limited Liability and Additional Liability Companies" (2018). Part 1 of Article 23 of this law states that in the event of the death or termination of a company shareholder, his share is transferred to his heir or successor without the consent of the company shareholders. In order to become a shareholder, the heir must submit to the registrar an application for membership and an inheritance certificate, which serves as proof of the right to inherit. However, neither the heir nor the registrar is obliged to notify the company of the new member.

There are two types of grounds for corporate rights: primary and derivative. The primary ones include those that arise when a business company and a corporate-type business entity are established, in cases established by law (Teymurova *et al.*, 2024). Derivative rights arise when:

- acquisition of newly issued shares;
- donation, sale and purchase, and exchange of shares;
- inheritance;
- reorganization;
- sale of shares (stakes) owned by a legal entity.

One of the important problems of corporate succession is that no one is fully managing *the* company during the process of determining the successor (Black *et al.*, 2022). In fact, this process can take years. Corporate rights may be significantly depreciated during this time due to unintentional or intentional actions of other company shareholders or management. The company may also fail to revalue its fixed assets in order to calculate the market value of the corporate rights to be paid to the expelled shareholder. There is also no regulation at all on the issue of profits made during the inheritance process.

To solve this problem, it is proposed to draw up a will, which should specify its executor (individual or legal entity). In addition, the company's charter should define the mechanism of inheritance of corporate rights and enter into a corporate agreement that will set out the specifics of the company's management during the inheritance process. It is also necessary to define a formula that will calculate the value of corporate rights after the revaluation of fixed assets, and it is mandatory to draw up a balance sheet as of the date of death and the date of inheritance and determine the

value to be used for the calculation. Also, the charter should establish that the executor of the will has the right to fully participate in the management of corporate rights during the execution of the inheritance (Zozulia, 2019).

As of 2024, there are different types of companies, organizations and enterprises, which causes different problems in the area of inheritance of corporate rights, and makes it even more difficult to determine and grant the status of the object of inheritance. The practice of inheriting the rights of legal entities in different types of business entities is different because the right to participate in them differs (Gafarova, 2023). Each type of company has its own difficulties for inheritance. Therefore, this paper will focus on joint stock companies and limited liability companies in more detail.

In the case of joint stock companies, shares may be inherited as an object of civil rights. All rights granted by the share are transferred to the shareholder's heirs. This means that the heirs acquire all property and non-property rights to participate in the company, and thus become full shareholders and members of the joint-stock company. There is no difference between inheriting shares and other property. The Law of Ukraine No. 514-VI "On Joint Stock Companies" (2008) does not stipulate that the consent of other shareholders is required to join the company. The practice of inheritance of shares and securities is fairly transparent in terms of legislative regulation and notarial practice.

One of the most developed areas is the practice of inheriting shares in the authorized capital of additional liability companies and limited liability companies. It so happens that founders often choose a limited liability company as a form of business entity when establishing a new legal entity (Kuzmak, 2023). According to the current legislation, there are two possible ways to inherit the corporate rights of a company's shareholder (Civil Code of Ukraine, 2003). These include: acquire corporate rights at the time of inheritance; acquire corporate rights by joining a company in the manner prescribed by law.

If focusing on inheritance after the death of a member of an additional liability company or a limited liability company, this topic contains elements of both inheritance and corporate relations, as well as property relations. In this context, it is worth paying attention to the following aspects (Spasybo-Fatyeyeva, 2023):

- the object of inheritance;
- death of a company shareholder as a ground for termination of corporate legal relations;
- the legal process of acquiring corporate rights by heirs;
- corporate governance at the time of inheritance;
- unification of the acquisition of corporate rights by heirs of LLC/ALC members and shareholders.

The inheritance may not include all rights in relation to a legal entity. For example, according to § 38 and § 40 German Civil Code (1900), the right to membership in an association cannot be inherited, although the articles of association may provide otherwise. Therefore, the inheritance of the right to membership and the inheritance of the right to participate is possible only if it is provided for by law. It can be concluded that the inheritance of corporate rights covers, in addition to property rights, also non-property rights in relation to legal entities (Horislavska, 2022).

It should be noted that in the field of international inheritance, states ambiguously resolve issues related to the inheritance of corporate rights and obligations in respect of legal entities. This is due to the fact that there are no special conflict-of-laws provisions in the international private law legislation of states that would regulate the inheritance of corporate rights in respect of different types of legal entities. In addition, the regulation of these issues often goes beyond inheritance law and is related to the commercial law of the state where the legal entity or the executive body of the legal entity is located. This raises the question of which relations should be governed by commercial law and which by inheritance law, since the application of conflict of laws to different areas of law may lead to different consequences.

In private international law, when corporate rights are inherited by heirs, the law applicable to inheritance in general will determine the issues related to who will be the heir. The commercial law of a particular state will resolve issues related to the possibility and form of transfer of corporate rights and other issues related to the establishment, operation, and termination of a particular type of business entity. Therefore, in this situation, it is very important to determine the cases when commercial law will be applied and when inheritance law will be applied and to distinguish between them correctly.

It is worth considering how to properly resolve the issue when the testator is a German citizen in a Spanish LLC and the heir is a German citizen residing in Germany (German Civil Code, 1900). In accordance with Article 21 of Regulation (EU) No. 650/2012 (2021) of the European Parliament and of the Council, German law will be the law of succession. Spanish commercial law will determine the amount of the inherited share in the charter capital and the possibility of its transfer to the heir. Article 32 of Act 2/1995 "Of Limited Liability Companies" (1995) states that a share in the share capital of a company may be transferred to an heir, unless the articles of association exclude such a possibility. If the charter does not provide for inheritance, then the heir is paid the market value of this share in the company. The "pre-emptive right to purchase" this share in the company can be exercised within three months from the date of notification of the death of the company's shareholder.

Regulation (EU) of the European Parliament and of the Council No. 650/2012 (2012) regulates the specifics of issues related to the withdrawal or entry of a shareholder into a company as a result of the death of the testator, as well as the legal consequences of the death of one of the shareholders. Pursuant to Article 1(2), Regulation (EU) of the European Parliament and of the Council No. 650/2012 (2012) does not apply to matters regulated by the laws on companies and other entities having or not having the status of corporations, such as the terms of the memorandum of association or articles of association of companies or other entities that determine what happens to shares after the death of the shareholders. This Regulation (EU) of the European Parliament and of the Council No. 650/2012 (2012) does not cover the legal regulation of legal entities, namely their establishment, management, and dissolution. It can be concluded that all these issues will be regulated by the laws of the country where the legal entity was established, as well as by the provisions of various international treaties. These include The Hague Conventions "On the Law Applicable to Trusts and on their Recognition" (1985), applicable to trusts, and Regulation (EC) No. 864/2007 of the European Parliament and of the Council "On the Law Applicable to Non-Contractual Obligations (Rome II)" (2007) and Regulation (EC) No. 593/2008 of the European Parliament and of

the Council "On the Law Applicable to Contractual Obligations (Rome I)" (2008).

In view of all the actual challenges, the term "inheritance of the rights of legal entities" should be enshrined in civil law. These rights include the following: the right to receive accrued profit cash; the right to receive funds accrued to the testator in the event of his/her withdrawal (disposal, expulsion) from the company, as well as in the event of liquidation of the company; the right to the property complex of the farm; law in relation to a private enterprise; the right to property and land shares owned by collective agricultural enterprises; the right to a share in the charter capital of an entrepreneurial company.

Discussion

In the previous section, the procedure for inheritance of corporate rights in Ukraine was reviewed and the legislation in the field of inheritance with the legislation of some EU countries was compared. It also suggested certain amendments to the Civil Code of Ukraine (2003). Y. Trufanova and K. Yatsenko (2022) studied the issues of inheritance contract regulation and the interaction of Ukrainian inheritance law and European inheritance law. An inheritance contract is a fairly common legal phenomenon in many European countries, and the process of its conclusion and execution is quite clearly regulated. At the same time, in Ukraine, inheritance agreements are not as widespread as, for example, inheritance by law or will. There is a need to analyse the provisions on the regulation of inheritance contracts in European and national legislation, and to identify the distinctive and common features of this institution. Nevertheless, the inheritance contract in Ukrainian civil law has certain distinctive features from the inheritance contract in other European countries, where under this contract the heir is appointed and considered together with inheritance by law and will as the basis for the transfer of property by inheritance (Vovk & Yurkevych, 2022).

It is worth agreeing with this opinion, as there is a need to harmonize civil and commercial legislation with EU norms. Thus, given that Ukraine is now on the path to a European model of society, the issue of implementing European norms in Ukrainian inheritance legislation is quite relevant for 2024. After the analysis, it will be possible to find gaps in Ukrainian legislation and adjust national standards to international and European standards and find ways to modernize and transform. This is necessary in order to effectively use these legal constructs and fill certain gaps in Ukrainian legislation in the legal regulation of inheritance contracts.

A.-F. Țicău-Suditu (2021) studied the human rights protection in the field of inheritance law. The history of ensuring fundamental human rights in the field of inheritance law is quite long. As of 2024, there is a divergent dynamism: traditionally, inheritance law belongs to private law, as it has a static dimension. However, it is worth pointing out that fundamental human rights are developing more dynamically and therefore require respect in all areas of law. This Article examines two main perspectives for development: the first is syncretic, at the national level, and the second is diachronic, evolutionary, at the supranational level, the way in which human rights case law has led to legislative changes. The freedom of movement of people within the community has changed patterns of life, both from the perspective of the European Union and the Member States. As a consequence, the change of life also means a change in the legal approach of *mortis causa*, mainly through the consideration of inheritance law.

Compared to this study, the work of A.-F. Țicău-Suditu (2021) focuses more on the study of the impact of fundamental human rights on the fields of not only inheritance law, but also property and family law. He also analyses the legislative impact and limitations of human rights in terms of inheritance law.

I.J.F.A. van Vijfeijken (2017) explored in his Article the issue of double taxation, which arose due to the lack of tax treaties, gaps in the legislation relating to inheritance and the absence of an inheritance tax. In December 2011, the European Commission developed and adopted a certain package of documents that would help to resolve the problems related to cross-border inheritance, but it did not give the desired result. In certain situations, the European Court of Justice may not allow double taxation of inheritance, but it is limited in its scope. In 2014, the European Commission set up an expert group to identify inheritance law issues for people who have moved from one European country to another. The main task of this expert group was to provide advice and propose solutions to tax problems. In short, the group's decision can be summarized as follows: "one inheritance – one tax" (Klimenko, 2022). This work can be used in case of issues related to the taxation of inheritance of foreign citizens or in cases where the inherited property of the heirs is located in a country other than their citizenship.

M. Załucki (2017a) conducted a study on the unification of European inheritance law. The need to write this work arose from the author's belief that it would be desirable to create a common European inheritance law in any form within the European Union. Private law areas in Central and Eastern Europe are currently gaining in importance, and inheritance law is no exception. Due to the dynamics of socio-political changes, assets increase in value (Załucki, 2017b).

Having made the comparison, it is now an ideal time to examine current trends in legislation and consider whether some common denominators have emerged in some EEA countries that allow for harmonization of inheritance law across European countries. G. Lutska *et al.* (2022) analysed and studied the process of implementing inheritance law in some EU countries. The main purpose of this Article is to study the peculiarities of inheritance in certain European countries. The implementation of inheritance law in Austria, Germany, and Spain is the subject of this research. The study examines the legal regulation of the right to inheritance in Austria, Spain, and Germany. The author examines the forms of wills available in these countries and the specifics of their drafting. The cases when heirs may disclaim their inheritance are considered. The author analyses the rights of minors when making a will. This work can be used as a basis for changes in Ukrainian inheritance legislation.

O. Beriozovas *et al.* (2022) investigated the issue of legal regulation of Lithuanian inheritance law in the context of EU law. Due to the fact that people in the EU can move freely, inheritance relations involving several states are increasingly common. Statistics show that in 2018, more than 500 000 EU inheritance cases per year consisted of international inheritance cases, i.e. about 10 per cent of all EU inheritance cases. This is because, after the opening of borders between EU countries, many European citizens marry

citizens of other countries, buy property outside their home country, work in foreign countries and move there. In such situations, controversial issues may arise during the inheritance process, such as what property belongs to the testator and who are his or her heirs. The issues described in the above Article concerned the regulation of inheritance relations in the following three aspects: practical problems arising in the regulation of international heritage relations; problems arising in the course of enforcement of court decisions, court agreements and other documents issued in foreign countries in the course of resolving inheritance cases; problems related to ensuring the principles of unity and equality of heritage in matters relating to international heritage.

It should be noted that in international inheritance cases, the practice of inheritance relations is regulated differently in different EU member states. In these cases, European countries apply both their own legislation and the Inheritance Regulation. In this situation, heirs face conflicts arising from the interaction of different systems of law, with different interpretations of inheritance law and its application in different cases.

Conclusions

The purpose of this paper is to study the legislation on inheritance of corporate rights in Ukraine and the EU countries and to compare them. The study analyses scientific works on this topic, legal acts regulating the inheritance of rights of legal entities, and also makes a comparative analysis of the legal regulation of inheritance of corporate rights in Ukraine and the EU countries. Based on this analysis, the Article proposes certain amendments to civil law.

The issue of succession to corporate rights is quite complex, as there are certain legislative gaps. EU Regulation (EU) of the European Parliament and of the Council No. 650/2012 regulates certain issues of succession to legal entities. However, if there are certain discrepancies in the regulation of relations, the law of the country in which the legal entity is established is applied.

The practice of inheritance of corporate rights in Ukraine has only recently begun to develop. The emergence of a new object of inheritance has given rise to many difficulties, contradictions, conflicts, misunderstandings, and disputes among scholars, practitioners, and legislators. Ukrainian law provides that when determining the successor to a legal entity, no one person can fully manage the company, which slows down the development of campaigns for years. This is also closely related to the contradiction in court practice. Some of these gaps can be resolved by amending the law, while others can be resolved by interpreting the relevant provisions. Nevertheless, it is worth noting that Ukrainian legislation is undergoing certain changes, which demonstrates the democratic vector of the state, leads to economic transformations and brings it closer to international standards. For example, due to the martial law, the principle of extraterritoriality is in force, which means that an inheritance case is opened at the request of the applicant by any notary of Ukraine, regardless of the place of inheritance opening.

After analysing the legislation in the area of corporate rights inheritance, it can be concluded that the European direction of development is unconditional. One of the most important areas of legislative development is its implementation and alignment with international standards set out in international treaties and regulations, and minimization of the possibility of legal conflicts in the course of litigation.

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Conflict of interest

None.

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Правове регулювання спадкування корпоративних прав за законодавством України та країн ЄС

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Анотація. Важливість вивчення цієї теми полягає в тому, що в умовах соціальних змін та глобалізації, які відбуваються на даному етапі розвитку суспільства, роль спадкування залишається значною. Спадкове право завжди було і буде найбільш актуальним у цивільному та господарському праві. Тому спадкування завжди буде об'єктом практичних та наукових досліджень. Метою цієї статті було дослідження та порівняння правового регулювання спадкування прав юридичних осіб за законодавством України та країн ЄС. Методологічною основою роботи були загальнонаукові методи пізнання, до яких належать методи наукової абстракції, індукції, дедукції, логічного узагальнення та екстраполяції. У статті проаналізовано спадкування прав юридичних осіб різних видів. На підставі цього аналізу зроблено висновок про актуальність вирішення проблемних аспектів спадкування прав юридичних осіб в Україні та відповідність національного законодавства у цій сфері законодавству країн ЄС. Проведено порівняння правового регулювання спадкування корпоративних прав в Україні та країнах ЄС. Розглядаються питання спадкування прав юридичних осіб у товариствах з обмеженою відповідальністю та акціонерних товариствах. Також висвітлено аспект можливих майбутніх змін у цивільному та господарському законодавстві. У дослідженні запропоновано зміни до Цивільного кодексу України у сфері спадкування прав юридичних осіб. Зокрема, пропонується доповнити Цивільний кодекс України новим визначенням поняття «спадкування прав юридичних осіб». У дослідженні також визначено, які права можуть успадковуватися юридичними особами. Дана робота може бути використана як інструмент для подальшого дослідження питань спадкування корпоративних прав в рамках розробки та вдосконалення законодавства з цієї тематики

Ключові слова: цивільні правовідносини; корпоративне право; корпоративні права; юридична особа; частка в статутному капіталі; гармонізація

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Psychological assistance to civilians in the context of the negative impact of war: The problem of improving legislation

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Abstract. This study was aimed at developing methods to improve the effectiveness of psychological assistance to Ukrainians affected by the Russian-Ukrainian war. For this purpose, the current legislation of Ukraine was analysed, a survey among the affected civilian population was conducted, and international experience in providing psychological assistance in war and crisis situations was considered. The findings demonstrated significant gaps in the legislation presented in the reviewed regulatory documents. The identified weaknesses related to coordination between different services, funding of programmes and specific needs of different population groups (children, women, the elderly and internally displaced persons), which led to a lack of efficiency in the provision of psychological assistance and limited access to the necessary services in the context of the Russian-Ukrainian war. A survey of respondents on the availability and quality of psychological assistance showed that 28% of respondents in Group 1 (whose participants had experienced traumatic experiences, including the occupation) highly appreciated the availability of assistance, while in Group 2 this figure was 59%. The findings indicated significant differences in the perception of the availability of assistance between different categories of the population, which is likely related to the level of trauma and the effectiveness of existing support programmes. It was found that the need for psychological assistance far exceeds the available resources, and the need to expand assistance programmes and increase their effectiveness was substantiated. International experience of providing

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psychological assistance in war and crisis situations has shown that integrated interventions that combine medical and psychosocial support are effective in reducing the level of mental disorders among refugees and victims. Recommendations for improving legislation included the introduction of information campaigns to reduce the stigma of mental disorders and raise public awareness of available services. The findings pointed to the need to integrate psychological support into the general healthcare system and to increase funding for programmes

Keywords: post-traumatic stress disorder; internally displaced persons; remote support; coordination of efforts; accessibility of services

Introduction

The war in Ukraine has caused widespread destruction of infrastructure, massive displacement and civilian casualties, resulting in serious psychological trauma. Many people have faced post-traumatic stress disorder (PTSD), depression, anxiety disorders and other mental health problems, which has increased the burden on the psychological care system, especially in frontline areas and rural areas. Failure to provide victims with the necessary psychological assistance can worsen their mental health and ability to adapt to new living conditions. The social stigma of mental disorders remains a significant barrier to seeking help: many people consider seeking counselling to be a sign of weakness, especially men and veterans. If this stigma is not overcome and numerous victims continue to ignore their psychological problems, it will lead to a worsening of their condition, a decrease in the quality of life and may contribute to higher levels of domestic violence and a worsening of the crime situation in Ukraine. Research into the provision of psychological assistance in war is critical to developing effective measures to support the affected population. Without adequate attention to these issues, Ukraine may face long-term consequences for the mental health of a large part of the population, which will complicate the country's recovery and social integration.

The problem of providing psychological assistance during COVID-19 was considered by E. Minihan *et al.* (2020) and Y. Wang *et al.* (2020). The impact of the pandemic on mental health and the role of psychological care in reducing negative consequences were studied by E. Minihan *et al.* (2020). The authors found that the pandemic has significantly increased the level of anxiety, stress, and depression among the population, and that first aid is an effective tool for providing support. Y. Wang *et al.* (2020) described measures to provide psychological assistance, including hotlines, online consultations, and mobile applications. The results showed the effectiveness of these measures in reducing anxiety and stress among the population, but the long-term effects of such interventions were not investigated.

The impact of war on the mental health of the population was considered in the works of S. Fel *et al.* (2022) and R.J. Johnson *et al.* (2022). The relationship between socio-demographic factors and PTSD among civilians in Ukraine who survived the hostilities was investigated by S. Fel *et al.* (2022). The authors found that factors such as age, gender, level of education, and socioeconomic status have a significant impact on the risk of developing PTSD. The study by R.J. Johnson *et al.* (2022) aimed to determine the level of trauma and prevalence of PTSD among urban residents who did not move from their homes and internally displaced persons (IDPs) as a result of the Russian-Ukrainian war. The results showed that IDPs experience a higher level of trauma and are more likely to develop PTSD; IDPs need targeted psychological support and adaptation of assistance programmes to meet their specific needs. The issue of developing effective mechanisms for overcoming stress among different demographic groups requires further study.

The issues of empathy, social connections, and spirituality in overcoming stress were addressed by R.A. Shalaby and V.I. Agyapong (2020), O. Ozcan *et al.* (2021), T. Shcherban *et al.* (2022). The study by T. Shcherban *et al.* (2022) revealed the positive role of empathy in negotiation and its impact on socio-economic indicators. Empathy among psychological care professionals can reduce stress levels and contribute to better adaptation of victims. R.A. Shalaby and V.I. Agyapong (2020) found that mutual support can reduce symptoms of mental disorders, improve quality of life and social integration of participants. O. Ozcan *et al.* (2021) examined faith and spirituality as coping mechanisms among women workers in humanitarian organizations. The study found that these factors help reduce stress levels, provide emotional support, and promote mental health. The issue of cultural differences and their impact on the effectiveness of support remained unexplored.

A. Kip *et al.* (2020) and J.P. Bouchard *et al.* (2023). The results of the study by J.P. Bouchard *et al.* showed that both refugees and those who stayed in Ukraine face high levels of PTSD, anxiety and depression, and effective psychological assistance should take into account the individual needs of war victims and provide long-term support. A. Kip *et al.* (2020) found that cognitive behavioural therapy and other structured forms of therapy significantly reduce symptoms of PTSD and depression in refugees and pointed to the need to introduce such interventions into refugee support programmes to improve their mental health. M. Posselt *et al.* (2019) found that access to social support, integration into local communities, employment opportunities, and access to health and psychological services are key factors contributing to refugees' mental health, while P. Schlechter *et al.* (2021) concluded that traumatic events have a significant impact on psychological distress, but that the presence of social support and religious faith can mitigate these effects.

The reviewed studies have shown that scientists are interested in various aspects of the psychological health of the population in crisis conditions, but the issues of long-term effects of the proposed methods of psychological assistance, as well as specific cultural and individual factors that affect the effectiveness of psychological support, remain unexplored. The purpose of the study was to find ways to improve the quality and accessibility of psychological assistance to civilians affected by the Russian-Ukrainian war. The tasks included analysing the current legislation of Ukraine, conducting a survey and developing specific proposals for improving the current legislation, taking into account the results of the survey.

Materials and methods

This empirical study analysed the current legislation of Ukraine that regulates the provision of psychological assistance to civilians. The sources reviewed included the Constitution of Ukraine (1996), Law of Ukraine No. 1489-III "On Psychiatric Care" (2000), Law of Ukraine No. 2801-XII "Fundamentals of Ukrainian Healthcare Legislation" (1993), Decree of the Cabinet of Ministers of Ukraine No. 1338 "Some Issues of Providing Psychological Assistance to War Veterans, Members of their FAmilies and Some Other Categories of Persons" (2022), Convention on the Rights of the Child (1995), Law of Ukraine No. 2145-VIII "On Education" (2017).

Statistical data provided by the Ministry of Health of Ukraine (Yulia Laputina took…, 2022), the National Institute for Strategic Studies (2023) and the Mental Health Centre in Lviv (Demchina, 2022) on the need for psychological assistance among Ukrainians were also considered. The study of non-governmental organization (NGO) initiatives included an analysis of the Doctors Without Borders psychosocial support programme in Donetsk and Luhansk regions (2024) and the Ukrainian Helsinki Union's free legal and psychological assistance to IDPs and victims of the conflict (National Agency of Ukraine…, 2024).

A survey of citizens was conducted to determine the effectiveness of psychological assistance in Ukraine. The respondents were divided into two groups: the first (survivors of hostilities, occupation, and IDPs from the temporarily occupied territories) and the second (those who were in the territories where no hostilities were taking place during the full-scale war). The sample was formed randomly from 531 Ukrainian citizens who had not travelled abroad as refugees. The first group consisted of 269 people (including 142 women) with an average age of 46.2 years. The second group consisted of 262 people (151 women) with an average age of 43.9 years. The questionnaire on the needs and satisfaction with psychological assistance included 23 questions divided into 5 blocks, which respondents answered on a scale from 1 to 5, where 1 – strongly disagree and 5 – strongly agree (Table 1).

Table 1. The questionnaire

I. Needs for psychological assistance:	1. I feel the need for psychological support.
	2. It is important for me to have access to qualified psychologists.
	3. I need regular psychological counselling sessions.
	4. I need group support (self-help groups, sessions with other victims).
	5. I need individual sessions with a psychologist.
	6. I feel that my psychological support needs remain unmet.
II. Availability of psychological assistance:	1. Psychological help is easily accessible to me.
	2. I know where to go for psychological help.
	3. I can get help at a time that is convenient for me.
	4. I have access to online consultations with a psychologist.
	5. I have access to mobile teams of social and psychological assistance.
III. Satisfaction with the quality of psychological assistance:	1. I am satisfied with the quality of psychological assistance I receive.
	2. The psychological help meets my expectations.
	3. The psychologists I work with are qualified and experienced.
	4. I feel that my mental state has improved since receiving help.
	5. I receive sufficient emotional support from psychologists.
	6. Psychological help helps me to cope with the consequences of trauma.
IV. Satisfaction with the organization of psychological assistance:	1. The process of making an appointment with a psychologist is convenient and simple.
	2. The waiting time for a session with a psychologist is acceptable.
	3. I am provided with information about available psychological assistance services.
	4. I feel that my needs and requests are taken into account when providing care.
V. General assessment of psychological assistance:	1. In general, I am satisfied with the psychological help I receive.
	2. I recommend others to seek psychological help.

The Student's t-test was used to compare the mean scores between the first and second groups. Formula (1) was used to calculate the t value:

$$t = (\bar{X}1 - \bar{X}2)/\sqrt{((s_1^2/n_1) + (s_2^2/n_2))}, \quad (1)$$

where $\bar{X}1$ and $\bar{X}2$ – the average values in the first and second groups, respectively; s_1^2 and s_2^2 – standard deviations; n_1 and n_2 – sample sizes. After calculating the t value, the level of statistical significance was determined using standard tables of critical values of the Student's t-test. The decision on the statistical significance of the differences between the groups was made on the basis of the obtained p-value ($p = 0.05$). The study was conducted in accordance with the recommendations of the American Sociological Association's Code of Ethics (1997) and the European Commission's guidance note on ethics and data protection (2021). All participants were fully informed about how their anonymity was guaranteed, why the study was being conducted, and how the data would be used.

Results

Analysis of the current legislation on psychological assistance to civilians. The effectiveness of psychological assistance in wartime. Ukrainian legislation on the provision of psychological assistance to civilians in times of war is an important aspect of ensuring the mental health and well-being of citizens. The main legislative acts that regulate this area are the Constitution of Ukraine, the Laws of Ukraine, decrees of the President of Ukraine, resolutions

of the Cabinet of Ministers of Ukraine and orders of the Ministry of Health.

Article 49 of the Constitution of Ukraine (1996) guarantees the right of every citizen to health care, medical assistance and medical insurance. This article provides a basic right to receive medical care, including psychological support. Law of Ukraine No. 2801-XII (1993) defines the basic principles of state policy in the field of healthcare, including ensuring mental health of the population; this law lays down fundamental provisions for the organization and provision of medical care, including psychological care. The Law of Ukraine No. 1489-III (2000) regulates in detail the provision of psychiatric care, including the rights of patients, the organization of psychiatric services and the protection of the rights of persons with mental disorders. Although this law is mainly concerned with psychiatric care, it also contains provisions for mental health care in emergency situations. Decree of the Cabinet of Ministers of Ukraine No. 1338 (2022) establishes the procedure for providing psychological assistance to victims of the Russian-Ukrainian war. This document defines the procedure for organizing psychological assistance, its scope and mechanisms of interaction between different services. In addition to national legislation, it is worth noting Ukraine's participation in international treaties and conventions governing human rights and the provision of medical care in war. For example, Ukraine is a party to the Convention on the Rights of the Child (1995), which obliges states parties to provide psychological support to children affected by conflicts.

The current Ukrainian legislation includes a number of regulations governing the provision of psychological assistance to civilians in times of war. However, there are certain gaps and shortcomings that need to be improved to ensure effective mental health support for affected citizens. The main shortcomings and gaps in Ukrainian legislation on psychological assistance to civilians in wartime relate to the fact that the current legislation does not always ensure sufficient coordination between different agencies and services responsible for providing psychological support (Law of Ukraine No. 2801-XII, 1993). This leads to fragmentation of care and inefficiency in the interaction between medical, social and other institutions. In addition, existing regulations often do not provide for clear mechanisms for funding and resource provision of psychological assistance programmes. For example, the Decree of the Cabinet of Ministers of Ukraine No. 1338 (2022) does not contain specific provisions on financial support for these programmes, which limits the ability to implement the planned activities and creates dependence on external funding and grants.

Legislation does not always take into account the specific needs of different categories of the affected population, including children, women, the elderly, and IDPs. The regulatory documents under review do not take into account the unique requirements of these groups, which may reduce the effectiveness of the assistance provided. The general absence of a system for monitoring and evaluating the quality of psychological assistance is also a significant drawback: The Law of Ukraine No. 1489-III (2000) does not provide for clear mechanisms for monitoring compliance with standards and evaluating the effectiveness of services provided, which makes it difficult to identify problems and implement corrective measures. Legislation also insufficiently regulates the issues of professional training and advanced training of specialists providing psychological assistance. Despite the provisions of Law of Ukraine No. 2145-VIII (2017), which provides for advanced training of specialists, there are no specialized programmes and courses for psychologists working in war. This leads to insufficient preparation of specialists to work with the affected population.

The current legislation of Ukraine plays a significant role in determining the quality and accessibility of psychological assistance to civilians affected by war. The impact of this legislation can be assessed from several perspectives. On the one hand, basic legislation, such as Law of Ukraine No. 2801-XII (1993), provides the legal framework for the provision of psychological assistance. They define general principles and approaches to mental health care, which is a positive factor in ensuring access to necessary services. However, the absence of clearly defined mechanisms for financing these services leads to limited resources. This, in turn, has a negative impact on the availability and quality of psychological assistance, especially in times of war, when the need for such assistance increases significantly. In addition, existing legislation does not always take into account the specific needs of different categories of affected populations, such as children, women, the elderly, and IDPs. The Convention on the Rights of the Child (1995) requires special attention to the psychological health of children, but national legislation does not always fully implement these requirements. This leads to a situation where vulnerable groups do not receive the necessary assistance in full.

Resolutions and orders, such as Decree of the Cabinet of Ministers of Ukraine No. 1338 (2022), regulate the provision of psychological assistance, but often contain general provisions without specifying methods and procedures, which creates difficulties in the practical application of the norms and leads to heterogeneity in the quality of services provided. The Law of Ukraine No. 1489-III (2000) provides a legal framework for the protection of the rights of persons with mental disorders, but does not sufficiently regulate the issue of psychological support in times of war. The lack of clear standards and protocols complicates the work of professionals and reduces the quality of care. There is a need for specialized programmes for psychologists working with war-affected people at the level of professional training and in-service training. The Law of Ukraine No. 2145-VIII (2017) provides for the possibility of advanced training, but the actual offer of such programmes is limited. This situation reduces the level of professional training of specialists and, as a result, the quality of services provided.

The effectiveness of psychological assistance in Ukraine largely depends on the geographical location and intensity of hostilities in specific regions. The need for psychological support is higher in the frontline areas due to constant threats to life, destruction of infrastructure and loss of loved ones. Living in such conditions leads to high levels of stress and PTSD among the local population. According to the Ministry of Health, more than 60% of Ukrainians need psychological help (Yulia Laputina took …, 2022), and according to a survey by the National Institute for Strategic Studies (2023) – up to 50%. In the central regions, where many IDPs are located, the situation is also difficult. The largest share of IDPs is recorded in Dnipro, Kharkiv, and Kyiv (with the city of Kyiv) oblasts (International Organization for…, 2023), which places additional strain on local health and social services. According to the Mental Health

Centre in Lviv, many of the displaced face difficulties in adaptation and need psychological support (Demchina, 2022). In large cities, such as Kyiv, Dnipro, Kharkiv and Lviv, there are more opportunities to receive quality psychological assistance due to the availability of specialized centres and support from international organizations. However, even in these cities, there are problems with access to services, primarily due to the high cost of consultations with private specialists and long waiting times for free consultations with specialists (in public clinics or sponsored by specialized organizations) due to high demand or insufficient number of qualified specialists. In rural areas, the situation is even more complicated due to the lack of sufficient medical and social facilities. Residents of rural areas are forced to travel to the nearest towns to receive psychological help, which creates additional difficulties and costs, or they may refuse to visit a specialist at all.

A study of the activities of governmental and non-governmental organizations providing psychological support in Ukraine has shown that there are a significant number of initiatives aimed at helping the affected population. The Ministry of Health of Ukraine has developed a number of programmes and activities aimed at providing psychological support. These include mobile teams of social and psychological assistance that operate in the frontline areas and help ensure access to services for residents of remote areas. In addition to government initiatives, non-governmental organizations that provide psychological support play an important role. Organizations such as Médecins Sans Frontières, the Red Cross and local NGOs are active in the conflict-affected regions, providing not only psychological assistance but also humanitarian support. Médecins Sans Frontières runs psychosocial support programmes in Donetsk and Luhansk oblasts, where it organizes support groups and individual counselling (Doctors Without Borders, 2024). An important role in providing psychological assistance is played by the Ukrainian Helsinki Human Rights Union, which provides free legal and psychological assistance to IDPs and victims of the conflict. Representatives of the organization carry out trainings for psychologists and social workers to improve the quality of service provision (National Agency of Ukraine…, 2024). The accessibility and quality of psychological care for different categories of the population in Ukraine can vary significantly depending on age, social status and place of residence. For children, especially those living in frontline areas or who are IDPs, access to psychological assistance is critical. Research shows that children who have experienced traumatic events often face PTSD and other psychological problems (Vibhakar *et al.*, 2019; Uppendahl *et al.*, 2020).

Adults also need psychological assistance, especially those who have been directly affected by hostilities or are IDPs. Research shows that many adults who have experienced traumatic events related to war face adjustment problems, anxiety, and depression (Kakaje *et al.,* 2021; Hoppen *et al.*, 2021; Lim *et al.*, 2022). They often do not receive adequate psychological support due to a lack of qualified specialists and an insufficient number of psychological assistance centres. Older people, especially those living in rural areas or in frontline zones, have limited access to psychological assistance. They often face isolation, loss of loved ones and general deterioration in health. Older people are one of the most vulnerable categories, and access to psychological assistance for them remains low due to physical limitations and lack of transport infrastructure. Furthermore, IDPs face particular challenges due to the loss of their homes, the severance of social ties and the need to adapt to new living conditions. Many of them need comprehensive psychosocial support, including psychological assistance, legal advice and social integration. However, there can be significant inequalities in the availability of such services depending on the region and the availability of local resources.

The results of the survey of respondents on their needs and satisfaction with psychological assistance. Participants in the first group demonstrated a higher level of trauma compared to participants in the second group, which was reflected in a greater need for specialized psychological assistance. The survey results showed that the need for psychological support was high among both groups. In the first group, 86% of respondents rated the need for psychological support at 4 or 5, while in the second group, the number of such respondents was 72%. This indicates that people who have experienced immediate danger have a greater need for psychological support. The average score for the block of questions about the need for psychological assistance was 4.4 for the first group and 3.9 for the second. It is important to note that the same psychological assistance resources can be perceived and used differently by these groups. In the first group, 28% of respondents rated the availability of psychological assistance as 4 or 5, while in the second group this figure was 59%. This indicates that participants in the second group had better access to psychological assistance due to lower levels of trauma, better infrastructure and access to resources (including financial) in regions that were not affected by the hostilities. In terms of the quality of assistance provided, 40% of respondents in the first group and 61% of respondents in the second group rated the quality of psychological assistance at 4 or 5. This indicator may indicate a critical lack of funding for relevant programmes for IDPs, as well as difficulties for citizens from the temporarily occupied territories or combat zones to establish a life in other regions of Ukraine due to social stigma, economic problems, lack of state support.

The organization of care provision also received low scores: only 25% of respondents in the first group and 35% in the second group rated the convenience and efficiency of the organization at 4 or 5. Overall satisfaction with psychological care was rated at the higher level by 35% of respondents in the first group and 40% in the second group. This indicates that a significant proportion of the population, both survivors and those who were relatively safe, are not satisfied with the level of psychological assistance. Figures 1 and 2 show the general results of the surveys of the first and second groups of citizens using a Pareto curve. Figure 1 shows the cumulative percentage of respondents in the first group who rated the availability of psychological help with an average score of 1.5 to 4.6. The majority of respondents (70%) rated the accessibility of care at 3 and below, which indicates general dissatisfaction with the availability of services and points to significant problems with the accessibility of psychological care in the first group.

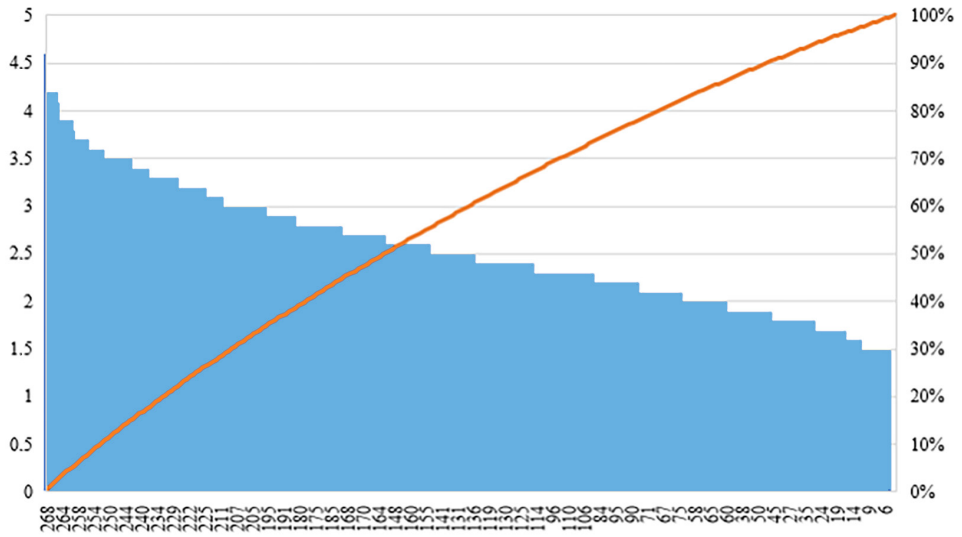

Figure 1. Results of the survey of the first group of citizens

Source: compiled by the authors

Figure 2 shows the cumulative percentage of respondents in the second group who rated the availability of psychological help with an average score of 2.5-4.9. It was found that almost 90% of respondents rated the accessibility of care above 3, indicating satisfaction with the availability of services. The survey results showed a high need for psychological assistance among both groups of respondents. Accessibility and quality of care remain problematic issues that need to be improved. Organizational aspects of psychological support also need to be improved to ensure greater efficiency and accessibility of services. Victims of the Russian-Ukrainian war face many problems and challenges that complicate their psychological recovery and adaptation to peaceful life. One of the main problems is the high level of PTSD among the population, especially among those who have experienced active hostilities or occupation. According to research, about 70% of these individuals experience PTSD symptoms, including intrusive memories, nightmares, and a constant state of anxiety (Greene-Cramer *et al.*, 2020; Riad *et al.*, 2022).

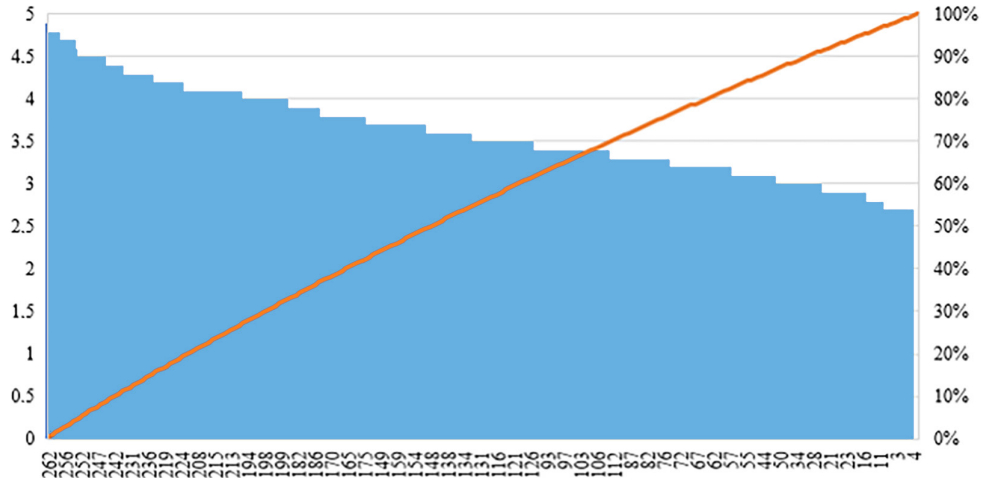

Figure 2. Results of the survey of the second group of citizens

Source: compiled by the authors

Access to psychological care is a serious problem for many victims. The war has severely damaged infrastructure, making it difficult to access medical and psychological services, especially in rural areas and frontline zones. Financial hardship is also a significant barrier to accessing psychological assistance. Many people have lost their jobs and housing and cannot afford paid psychological services. State support programmes often do not have sufficient funding to cover all the needs of victims, resulting in long waiting lists and insufficient sessions for effective treatment. The social stigmatization of mental disorders remains an important barrier to receiving help. Many victims, especially men, consider going to a psychologist a sign of weakness and try to cope with their problems on their own, which often leads to a worsening of their condition. Lack of information is also an important challenge: many people simply do not know

where and how they can get psychological help. The lack of effective information campaigns and insufficient cooperation between government agencies and NGOs means that victims do not receive the support they need. In addition to these problems, family conflicts and problems with adaptation to new living conditions create additional stress for victims. IDPs often face hostility or indifference from the local population, which complicates their integration and adaptation.

International experience and its adaptation to Ukrainian realities. International experience in providing psychological assistance in war and crisis situations shows the effectiveness of an integrated approach that includes both medical and social aspects of support. For example, the programmes implemented by Doctors Without Borders (2024) use mobile teams of psychologists who provide assistance directly in conflict zones. This allows them to respond quickly to the needs of victims and provide timely support. In Israel, where the population often faces terrorist attacks, an effective system of crisis centres has been created that operate around the clock and provide both emergency and long-term support to victims (Grossman, 2024).

Ukrainian practices of providing psychological assistance have some common features with international approaches, but also significant differences. In Ukraine, as in many other countries, mobile teams of social and psychological assistance are used, but their number and coverage are much smaller. In addition, Ukrainian programmes are often underfunded and lack resources, which limits their effectiveness. International experience shows that the integration of psychological support into the overall health and social services system is a key success factor. For example, in the United States and Canada, integrated care approaches are actively used, where psychological support is part of general medical care, which allows for a comprehensive approach to the treatment of victims (Remien *et al.*, 2019; Moroz *et al.*, 2020; Daly & Robinson, 2021).

For the successful adaptation of international standards and practices to the Ukrainian context, it is necessary to take into account the specifics of Ukrainian realities and limited resources. The number of mobile social and psychological assistance teams should be increased and provided with adequate funding and resources. This will help to expand coverage and ensure accessibility of assistance even in remote and frontline areas. It is also important to integrate psychological support into the general healthcare system, in particular by training medical staff to work with psychological trauma and creating multidisciplinary teams that can provide comprehensive care. Remote forms of support, such as online counselling and telephone hotlines, should be developed to provide access to help for people who cannot visit a psychologist in person. It is important to implement information campaigns to reduce the stigma of mental disorders and raise public awareness of available services.

Recommendations for improving the legislation. In order to improve the provision of psychological assistance to civilians in wartime, several important changes to the current legislation of Ukraine are needed. First, it is necessary to increase funding for psychological assistance programmes, including both state and local budgets, and to attract international grants and assistance. Additional resources would allow for better training of specialists, purchase of necessary equipment and expansion of the network of mobile teams of psychologists. Second, psychological support should be integrated into the general healthcare system. This can be done by amending the Law of Ukraine No. 2801-XII (1993), in particular, by adding provisions on mandatory psychological assistance as part of primary healthcare. This approach will ensure comprehensive treatment of victims and increase the effectiveness of care.

The survey results showed that affected citizens often face problems with the availability and quality of psychological assistance. In particular, the study found that 86% of respondents who experienced immediate danger feel the need for psychological support, but only 28% of them have access to it. Since mobile teams of psychologists working in the frontline areas are one of the most effective forms of assistance in the context of destroyed infrastructure, but their number and funding are insufficient, it is recommended to expand the programmes of mobile teams and provide them with adequate funding. New legislative initiatives need to be developed that take into account the specifics of psychological assistance in war. One such initiative could be the creation of a National Psychological Support Programme, which would involve coordination between different levels of government, international assistance and sustainable funding. This programme should include the development of remote forms of support, such as online counselling and hotlines, to ensure access to assistance even in remote areas.

Another important initiative is the introduction of mandatory refresher courses for psychologists working with war victims. This can be done by amending the Law of Ukraine No. 2145-VIII (2017) to include provisions on specialized training for working in crisis situations. Taking into account the results of research and analysis, the proposed legislative changes and new initiatives aim to create a more effective system of psychological assistance that will take into account the specific needs of the affected population and provide timely support. The first step in implementing the proposed changes in the provision of psychological assistance should be the development and adoption of relevant legislation that provides for increased funding for psychological support programmes, integration of psychological assistance into the general healthcare system and development of remote forms of support, including amendments to the Law of Ukraine No. 2801-XII (1993) and the creation of the National Programme of Psychological Support. The second stage should be the training and education of specialists. This involves the introduction of mandatory refresher courses for psychologists working with war-affected people through amendments to the Law of Ukraine No. 2145-VIII (2017). The third stage includes the deployment of mobile teams of social and psychological assistance and the creation of infrastructure to provide remote support, such as online consultations and hotlines.

There may be certain obstacles to implementing change that need to be considered. One of the main obstacles may be limited funding, which can be overcome by attracting international grants and assistance from organizations such as the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF). It is also important to establish a transparent system for allocating funds and monitoring their use to ensure that programmes are funded effectively. Another obstacle may be the lack of qualified professionals, which can be addressed by introducing the specialized training courses described above and by engaging international

experts to train local psychologists. Stakeholder engagement is a critical step for the successful implementation of change. The main stakeholders are government agencies such as the Ministry of Health and the Ministry of Education, which will be responsible for developing and implementing new legislative initiatives. International organizations, such as WHO, UNICEF, and Médecins Sans Frontières, can provide financial and technical support, as well as help with training of local professionals. Civil society organizations and local NGOs have an important role to play in providing direct assistance to victims and informing the population about available services. It is also important to engage local communities and opinion leaders to raise awareness of the need for psychological support and reduce the stigma of mental disorders.

Identifying the main steps and stages of implementation of the proposed changes, taking into account possible obstacles and ways to overcome them, as well as engaging stakeholders are key elements for the successful reform of the psychological assistance system in Ukraine to ensure more effective and accessible support for all war-affected people, improving their mental health and quality of life.

Discussion

The study of the psychological health of Ukrainians in the context of the Russian-Ukrainian war revealed significant gaps in current legislation and practices of assistance. It was found that the main problems relate to insufficient coordination between different agencies and services, lack of funding and resources, and the absence of specialized programmes for different categories of affected population. It was also determined that the legislation does not provide adequate training for specialists working with war victims. Based on the data obtained, recommendations were made to improve the legislation: it was proposed to increase funding for psychological assistance programmes, integrate psychological support into the general healthcare system, develop specialized programmes to improve the skills of specialists and create a National Psychological Support Programme to ensure coordination between different levels of government and attract international assistance.

The study found that the main problems are insufficient coordination between different bodies and services responsible for providing psychological support, as well as the lack of clear mechanisms for funding and resource provision of programmes. The findings highlighted the importance of a comprehensive approach to addressing these issues, including the integration of psychological support into the general healthcare system and the development of remote forms of support. A study of psychological and socio-cultural adaptation of Syrian refugees in Turkey A. Şafak-Ayvazoğlu *et al.* (2021) found that refugees face limited access to medical and psychological services, as well as psychological stress related to fleeing war and losing loved ones. The authors concluded that social support and adaptation programmes (language courses, vocational training and social integration) that are culturally sensitive can significantly improve the psychological well-being and integration of refugees into a new society. Both studies pointed to the importance of a comprehensive approach to psychological assistance, taking into account the cultural and social characteristics of the affected populations. As in the case of Syrian refugees in Turkey, affected Ukrainians need to integrate psychological support into the general healthcare system, specialized programmes and courses, and adequate funding for the effective implementation of these programmes.

The integration of psychological support into the general healthcare system is a key aspect of improving the quality of care provided to civilians in times of war. As the number of psychosocial support teams in Ukraine is insufficient, there is an urgent need to increase funding. It is important to integrate psychological support into the general healthcare system by training medical staff to work with psychological trauma and creating multidisciplinary teams. Integrated mental health and psychosocial support interventions for refugees in humanitarian crisis settings have been studied by I. Weissbecker *et al.* (2019). The main problems were identified as high levels of PTSD, anxiety, depression, and other mental disorders among refugees fleeing violence and conflict. The study found that integrated interventions that combine medical and psychosocial support are effective in reducing mental disorders among refugees; the authors concluded that coordination between different organizations and access to comprehensive support programmes for refugees in humanitarian crisis settings is needed. P.D. McGorry *et al.* (2022) focused on the development and scaling up of integrated mental health programmes for young people. The study showed that programmes that include both medical and psychosocial support are effective in reducing mental disorders among young people, and confirmed the importance of providing funding and training for scaling up these programmes. Comparison with the Ukrainian experience has shown that a comprehensive approach to psychological care should take into account the cultural and social characteristics of affected populations, and be supported by sustainable funding to help sustain and scale up these programmes.

The results of the survey revealed significant differences in the perception of the availability and quality of psychological assistance among different categories of the population. In the first group, 28% of respondents rated the availability of psychological assistance at 4 or 5, indicating low accessibility and ineffectiveness of existing support programmes for this category. In the second group, accessibility of services was found to be much better, with 59% of respondents from less affected regions giving this parameter higher scores. In terms of the quality of assistance, 86% of respondents in the first group felt the need for psychological support, but only 40% said that the assistance they received was adequate. This indicates a significant gap between the needs and capacities of the psychological assistance system. In the second group, these figures were 72% and 61%, respectively, indicating a smaller gap and higher quality of services provided. In the study by B. Simo *et al.* (2018) revealed the factors that influence the use of mental health services among people with high levels of psychological distress and mental disorders. The main problems were identified as low utilization of mental health services among the population with high psychological needs. The researchers found that the main predictors of mental health service use are the level of social support, awareness of available services, financial accessibility and destigmatization of mental disorders. M. Kamali *et al.* (2020), for their part, revealed the problem of providing mental and psychosocial support to women and children in conflict settings. The interventions are effective in reducing PTSD, anxiety and depression, and the most effective approach was called a comprehensive approach that would include both individual and group therapy, as well

as social support. The significant gap between the need for psychological help and the actual availability and quality of services is not unique to Ukraine. The low accessibility of psychological assistance in areas of active hostilities means that even those who are most in need of support are often unable to receive it. The studies reviewed have confirmed the importance of raising public awareness of available services, reducing the stigma of mental disorders, and ensuring financial accessibility to improve the use of mental health services. It is also important to develop a comprehensive approach that includes social support and informing the population about available mental health resources.

Victims of the Russian-Ukrainian war often face numerous psychological problems, including PTSD, anxiety, and depression. A large part of the population is under constant stress, which negatively affects their daily lives and psychological well-being. As noted earlier, about 70% of people who have experienced active hostilities or occupation experience symptoms of PTSD, which indicates the seriousness of the problem and the need for qualified psychological assistance (Greene-Cramer *et al.*, 2020; Riad *et al.*, 2022). Access to psychological care remains problematic due to damaged infrastructure, especially in rural areas and frontline zones, meaning that many victims are unable to receive the necessary assistance in a timely manner, which hinders their psychological recovery. Financial difficulties are also a significant barrier, as many people have lost their jobs and homes and cannot afford paid psychological services. The impact of wartime stress on sexual health among the Israeli population was studied by A. Lazar *et al.* (2024). The study showed that this factor significantly affects sexual health, reducing satisfaction and increasing the frequency of dysfunctions. It is important to keep in mind that psychological stress has a broad impact on various aspects of a person's life, which emphasizes the importance of psychological support to improve the quality of life of victims. H. Comtesse *et al.* (2019) studied the long-term psychological consequences of the war in Bosnia and found that even 11 years after the end of the war, former refugees, IDPs and those who stayed in the country continue to experience high levels of psychological distress, while V. Rozanov *et al.* (2019) concluded that in order to effectively overcome the psychological consequences of war, it is necessary to implement comprehensive psychological support programmes that include individual and group forms of therapy, early intervention and long-term support. Long-term psychological support and rehabilitation is critical to improving the mental health of affected Ukrainians, and it is necessary to integrate such programmes into the healthcare system to ensure sustainable improvements in mental well-being.

The study found that the majority of Ukrainians faced high levels of stress, anxiety and depression, and the vast majority of respondents (86%) from the first group highly rated their need for psychological support. Such a high level of need indicates the ineffectiveness of existing support programmes, and it was concluded that new programmes need to be developed and existing ones improved. Similarly, the availability and quality of psychological assistance remains a problem – only 28% and 40% of respondents respectively rated them as high, meaning that most victims cannot receive the support they need. The study by M. Shaheen *et al.* (2020) analysed the impact of traumatic stress on the mental state of adolescents in the context of the Israeli-Palestinian conflict. The main problems were identified as high levels of trauma, PTSD, anxiety, and chronic stress. D. Bürgin *et al.* (2022) studied the impact of war and forced displacement on children's mental health. The researchers found that children who survived war and forced displacement demonstrate high levels of psychological distress, and suffer from PTSD, anxiety, and depression. It was recommended to introduce multi-level approaches to support children's mental health, including individual therapy, group support and integration of psychosocial support into educational programmes. In all cases, it was confirmed that traumatic stress has a significant negative impact on the mental health of all age groups. In the context of Ukraine, the impact of war on children and adolescents needs to be studied in detail, as the psychological health of new generations is an important aspect of the country's post-war development. Future research should focus on the development and implementation of comprehensive psychological support programmes that take into account the specifics of the traumatic experience of children and adolescents, and special attention should be paid to studying the long-term effects of mental stress and developing early intervention strategies that will help reduce the risk of developing mental disorders in the future.

The authors of all the studies reviewed agreed on the need for state involvement in overcoming the consequences of war for the psychological health of the population, which confirmed the conclusion that funding for psychological support and rehabilitation programmes is key. Without active involvement of state resources and coordination of efforts of various organizations, it is impossible to effectively address the mental health problems of victims, so to ensure long-term improvement of the mental well-being of the population, it is necessary not only to develop and implement specialized programmes, but also to create a sustainable infrastructure for their implementation.

Conclusions

This study on psychological assistance to the civilian population of Ukraine in the context of the Russian-Ukrainian war has identified that the current Ukrainian legislation on psychological assistance, while containing important and useful provisions, has significant shortcomings. These shortcomings include insufficient coordination between different agencies, lack of clear mechanisms for funding psychological support programmes, and limited attention to the specific needs of different categories of the population. The current Ukrainian legislation does not fully take into account the specifics of the military conflict and its consequences for the mental health of Ukrainians.

A survey of two groups of citizens revealed that respondents in the first group (those who had experienced hostilities or occupation) had a higher level of trauma than those who had been in relative safety (the second group). The findings pointed to the need to create and develop large-scale specialized support programmes that would take into account the depth of trauma and provide more intensive and long-term psychological assistance. General psychological support programmes, which may be effective for less traumatized individuals, often fail to meet the needs of IDPs and combat survivors. According to the survey, 28% of respondents in the first group rated the availability of the psychological

assistance they needed at 4 or 5, while 59% of respondents in the second group gave the same rating. These figures indicate that participants in the second group had better access to psychological assistance due to lower levels of trauma, better infrastructure and access to resources in regions that did not experience hostilities.

There is also a significant difference in the needs and perceptions of psychological assistance between the two groups of respondents: people who have directly experienced hostilities or occupation have experienced much greater mental trauma, which is why they need more intensive and specialized psychological assistance, including individual therapy, long-term medication support, and the use of specialized therapies, such as trauma therapy or cognitive behavioural therapy. In contrast, citizens who were relatively safe during the war, although they may experience stress or anxiety, do not have such deep psychological trauma. For them, general psychological support programmes, including group sessions, counselling, and other less intensive forms of assistance, can be quite effective. The information obtained helped to reveal the need for a differentiated approach to providing psychological assistance, taking into account the level of trauma and the specific needs of each population group.

The results of the study pointed to the need to reform the system of psychological assistance in Ukraine by introducing legislative changes that would increase funding for programmes, integrate psychological support into the general healthcare system, develop remote forms of support and specialized training programmes for psychologists working with war victims.

A limitation of the study was the lack of long-term follow-up of respondents, which prevented us from taking into account possible changes in psychological well-being due to improvements in the psychological assistance system, external factors and psychological adaptation of the civilian population. Further research is recommended to focus on the long-term effects of psychological trauma on different categories of the population and the effectiveness of different approaches to psychological support, which will help improve understanding of psychological well-being and develop effective approaches to improving the mental health of the population in the context of Ukraine's post-war recovery.

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Психологічна допомога цивільному населенню в контексті негативного впливу війни: проблема вдосконалення законодавства

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Анотація. Дане дослідження було спрямоване на розробку методів підвищення ефективності надання психологічної допомоги українцям, постраждалим внаслідок російсько-української війни. Для цього було проаналізовано чинне законодавство України, проведено опитування серед постраждалого цивільного населення та розглянуто міжнародний досвід надання психологічної допомоги в умовах війни та кризових ситуацій. Отримані результати продемонстрували значні прогалини в законодавстві, поданому в розглянутих нормативних документах. Виявлені слабкі місця стосувалися координації між різними службами, фінансування програм та специфічних потреб різних груп населення (дітей, жінок, літніх людей та внутрішньо переміщених осіб), що призвело до недостатньої ефективності у питанні надання психологічної допомоги та обмеженому доступі до необхідних послуг в умовах російсько-української війни. Проведене опитування респондентів щодо доступності та якості психологічної допомоги показало, що 28% респондентів групи 1 (учасники якої пережили травматичний досвід, зокрема окупації), високо оцінили доступність допомоги, тоді як у групі 2 цей показник склав 59%. Отримані дані вказали на значні відмінності в сприйнятті доступності допомоги між різними категоріями населення, що, ймовірно, пов'язано з рівнем травматизації та ефективністю наявних програм підтримки. Було виявлено, що потреби в психологічній допомозі значно перевищують доступні ресурси та обґрунтовано необхідність розширення програм допомоги та підвищення їхньої ефективності. Міжнародний досвід надання психологічної допомоги в умовах війни та кризових ситуацій показав, що інтегровані інтервенції, які поєднують медичну та психосоціальну підтримку, є ефективними у зниженні рівня психічних розладів серед біженців та постраждалих. Рекомендації щодо вдосконалення законодавства включали впровадження інформаційних кампаній для зниження стигматизації психічних розладів та підвищення обізнаності населення про доступні послуги. Отримані результати вказали на необхідність інтеграції психологічної підтримки в загальну систему охорони здоров'я та збільшення фінансування програм

Ключові слова: посттравматичний стресовий розлад; внутрішньо переміщені особи; дистанційна підтримка; координація зусиль; доступність послуг

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