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Digital databases of court decisions in criminal proceedings: Value, risks, and use optimisation

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Abstract. The relevance of this study is conditioned, firstly, by the global trend of digitalisation of court practice which requires adaptation to the new reality, and secondly, by the insufficient development of the theoretical and methodological foundations for the use of such an exclusive source for the development of legal science and practice. The purpose of the study was to formulate, at the conceptual level, the basis for the effective use of court decision databases in criminal proceedings for scientific research, optimisation of practice and the educational process. The cluster of methodological research tools included systemic, comparative, synergistic, risk-oriented approaches, and methods of formal logic. The study summarised the data on the procedure for publishing court decisions in the Unified State Register of Court Decisions of Ukraine and reviewed the European practices of digital platforms or judicial practices. The study found that the Ukrainian platform of digitised documents is analogous to its European counterparts. It is a source of metadata of court decisions, data on criminal offences, pre-trial investigation and court proceedings, evidence, court reasonings, and specific language of legal documents. This allows not only implementing the principle of openness of court proceedings and access to court decisions but also considering these resources in an axiological context that unites a trilogy of components (political-legal, social, and procedural elements). The study also showed the risks, limitations, and problems of using court decision databases, such as inaccurate search results or restricted access to the system in extraordinary cases. The study suggested improving the national platform by adding options. The practical value of this study lies in presenting to a wide audience the possibilities of using digital platforms for judicial practices and formulating proposals for optimising the information and analytical tools of the Unified State Register of Court Decisions

Keywords: criminal proceedings; court; procedural decisions; information and analytical activities; digital documentation

Introduction

The relevance of this study is caused by the need for constant monitoring of judicial practice to optimise the justice system. Judicial practice is an indicator of how openly and transparently justice is administered, how good the legislation is, and whether the principles of legal certainty are sufficiently implemented as a component of the rule of law. However, the number of criminal proceedings is increasing from year to year, and the number of court decisions is growing rapidly, which necessitates the development and implementation of high-quality information and analytical tools for working with this data. Therefore, the digitalisation of criminal proceedings has not spared the area of court decisions. National and international specialised registers have emerged that contain full-text documents or short summaries of judicial decisions, which are freely available for anyone to read. However, there are no comprehensive studies that would demonstrate the advantages and disadvantages of these information resources, which was the primary motivation for this study.

The literature discusses court decisions in various contexts. O. Omelchenko (2024) showed interest in developing general theoretical issues, specifically, the validity and motivation of court decisions, legal technologies for the preparation of court decisions – a study by O.O. Superson (2023). Other researchers, bypassing theoretical discussions, analysed the content of digitised documents in specialised areas, such as D.M. Hudenko (2024), who investigated the specific features of detective work during martial law in Ukraine based on judicial practice. P.R. Seseña *et al.* (2024) analysed the institution of plea bargaining in Spanish law through the lens of court decisions, while Y.C. Yu *et al.* (2023) studied deaths based on data published in the Taiwanese court decision database. While appreciating the substantial contribution of these researchers, these developments did not provide a general systematic view of the significance of judicial information resources in scientific doctrine and law enforcement.

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Notably, in the 2020s, a steady increase in the number of sources was observed, which integrated artificial intelligence and legal analytics. This refers to the introduction of auxiliary tools for searching for legal documents, preparing texts of court decisions, and predicting the outcome of court proceedings. D. Byelov and M. Bielova (2023) described the potential of artificial intelligence to analyse large amounts of information, including judicial practices, pattern identification, and search for relevant data to make informed decisions. F. de Arriba-Perez *et al.* (2022) proposed optimisation of the automatic classification of court decisions based on innovative natural language processing techniques. K. Javed and J. Li (2024) emphasised that the prospect that the ability of machine learning models to learn rules from vast datasets can eliminate cognitive biases inherent in humans and improve the accuracy of judicial decision-making cannot be ignored. M. Lidén (2024), appealing to the principle of "analogous cases should be treated equally", tested whether it is possible to predict court decisions based on a certain set of criteria that can be accessed without even reading the case file. The researcher stated that some judicial decisions are highly predictable. K. Chien *et al.* (2024) conducted an analogous study, analysing the ability of prosecutors to predict court decisions. S. Greenstein (2022) was critical of artificial intelligence in the field of justice, considering it "an existential threat to the rule of law", which is why the use of artificial intelligence stays controversial. Once again, the focus of these studies was on innovation rather than on how registers of digitised court documents affect the justice system and scientific doctrine.

An exception was the study by S. Brekke *et al.* (2023), which summarised the potential of the information database covering information on cases, judgments, and judges of the Court of Justice of the European Union (CJEU Database Platform). As the researchers argued, the various datasets provided by the platform "open the door" for theoretical and empirical studies of European legal policy. However, this approach presents only one scientific and theoretical aspect, while this type of resource has no less important practical application.

The purpose of the present study was to formulate a conceptual framework for the effective use of databases of court decisions in criminal proceedings for scientific research, optimisation of practice and education.

Materials and methods

The fulfilment of this purpose and the substantiation of the findings obtained was made possible by the application of a cluster of methodological principles and approaches. The paradigm fundamental to the presentation of the researcher's views and opinions was shaped by the values of the rule of law, respect for human dignity, protection from arbitrariness, transparency, openness, and access to fair justice. The systemic approach provided a comprehensive understanding of the subject matter of the study and the links between its structural components. The comparative approach helped to compare Ukrainian and international practices in the formation of court decision databases and their use. The synergistic approach helped to identify significant points of convergence between modern technologies and judicial practice, which helped to organise and perform high-quality analytical work with large amounts of textual data published by the judicial authorities in the form of verdicts, rulings, and resolutions. The risk-oriented approach ensured forecasting of challenges and problems related to the use of information resources of the judiciary. The methodological toolkit also included methods of formal logic (analysis, synthesis, analogy, etc.), which were employed to build classifications, present arguments for intermediate and final conclusions.

The regulatory framework of the study included the Criminal Procedural Code of Ukraine (2012), the Law of Ukraine No. 3262-IV "On Access to Court Decisions" (2005) and the Decision of the High Council of Justice No. 1200/0/15-18 "On Approval of the Procedure for Maintaining the Unified State Register of Court Decisions" (2018). The study employed official judicial statistics on the state of administration of justice in Ukraine published on the web portal of the judiciary in Ukraine (Judicial statistics, n.d.); analysed the data of the Unified State Register of Court Decisions (n.d.), which as of the beginning of 2025 had 123,071,115 uploaded documents; the user interface of analogous national platforms for judicial practices of Belgium (Belgian Court Judgments Database, n.d.), Germany (German Court Judgments Database, n.d.) was studied. d.), Spain (Spanish Court Judgments Database, n.d.), Lithuania (Lithuanian Court Judgments Database, n.d.), the United Kingdom (UK Court Judgments Database, n.d.) and international platforms for judicial practices: the Court of Justice of the European Union (InfoCuria, n.d.) and the European Court of Human Rights (HUDOC Database, n.d.).

The research strategy involved first presenting the general legal basis for the formation and functioning of open databases of court decisions in Ukraine, then clarifying the significance and potential use of registers of court decisions, and logically concluding the research by differentiating the risks and problems of using these resources and formulating proposals for optimising their work.

Results and discussion

Legal regulation of the procedure for publishing court decisions in open databases: national context. According to Ukrainian legislation, one of the principles of criminal proceedings is publicity and openness of court proceedings. This principle is prescribed in Item 20 of Part 1 of Article 7 and Article 27 of the Criminal Procedural Code of Ukraine (2012). This means that criminal proceedings in courts of all instances are conducted in public, except for restrictions stipulated by law. If justice is administered in the public eye, it is only logical that procedural decisions should be accessible to stakeholders and the public. Therefore, the principle of openness of court hearings is further implemented by making court decisions public, and courts make them every day. Over 80,000 criminal cases are considered annually at the first instance level in Ukraine alone. On average, another half a million appeals are resolved by investigating judges during pre-trial investigations (applications for recusal; complaints against decisions, actions, or inaction; motions by investigators, prosecutors, etc.). Figure 1 presents the dynamics of court statistics over the past three years. Each appeal ends with a procedural decision, while several such decisions may be issued in the criminal proceedings. All this confirms that in the digital era, innovative information and analytical tools are indispensable for observing the principle of openness of justice, presenting transparency of procedures, legal certainty, and unity of judicial practice.

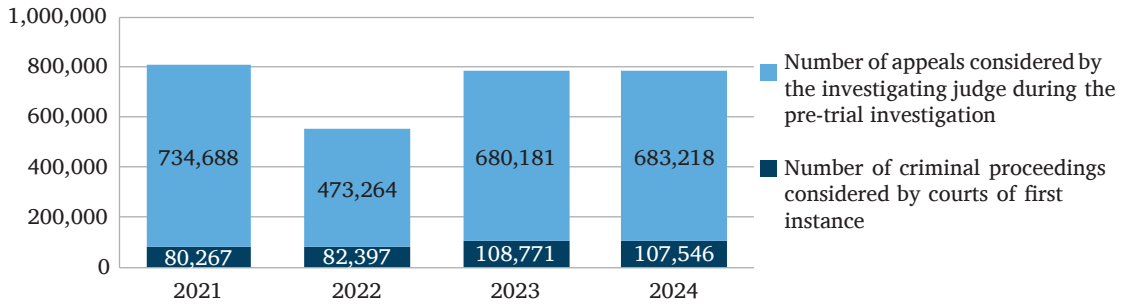

Figure 1. Quantitative indicators of consideration of materials in courts of first instance
Source: developed by the author of this study based on Judicial statistics (n.d.)

The provisions of the Law of Ukraine No. 3262-IV (2005) oblige courts to announce judgments in public, except those instances when the case was heard in closed session; establish the right of everyone to access court decisions in the manner prescribed by law; regulate the procedure for publishing court decisions in electronic form; determine the State Judicial Administration as the responsible entity for maintaining the Unified State Register of Court Decisions; and regulate the rules for official publication of court decisions. The aforementioned Decision of the High Council of Justice No. 1200/0/15-18 (2018) details the procedures related to the operation of the digital database of judicial practices. The same document (Section I, paragraph 17, item 1) defines the concept of "court decision", which is often referred to in the present study. It is a procedural document adopted by a court or investigating judge during a pre-trial investigation or during consideration of criminal proceedings at any stage of the court proceedings. These include rulings, verdicts, and resolutions of judicial authorities. Although a dissenting opinion of a judge is not a court decision by its very nature, this document is a special source of information containing individual evaluative judgements on the circumstances of the case, evidence, standards, and procedures applied, and alternative reasons for making a decision as opposed to those used by the majority of the court. Therefore, the presence of such documents in the database is also of significant theoretical and practical significance.

Unrestricted access to information on criminal proceedings cannot be absolutised. For instance, convicted persons may be stigmatised in society, analogously to the situation with public notification of criminals released from prison. M. Himmen *et al.* (2023) confirmed the preconceived negative attitudes towards such categories of people. A balance of public and private interests is necessary. The legislator, factoring in the vulnerability of the position of individual participants in criminal proceedings and security issues, mandates that the texts of court decisions open to the public should not disclose or replace with alphabetic or numeric designations personal data of individuals that enable their identification, information about their addresses of residence, contact details, taxpayer registration numbers, details of identity documents, vehicle registration numbers, bank account and payment card numbers, etc. In addition, the information that was used to protect the case or certain procedural actions in a closed court session is not subject to disclosure.

A special provision is made for the names of judges and other participants in the court proceedings. According to Article 7 of the Law of Ukraine No. 3262-IV (2005), their names (first name, patronymic, and surname) may not be indicated for security reasons. The procedure of "depersonalisation", i.e., disguising the specified information in the text of an electronic copy of a court decision or dissenting opinion, is performed automatically using specialised software (Section I, paragraph 17, item 1) (Decision of the High Council of Justice No. 1200/0/15-18, 2018).

An overview of the Unified State Register of Court Decisions gives grounds for the following conclusions: (1) the system has a user-friendly interface design, and the instructions in the Help section enable beginners to grasp the intricacies of searching for relevant documents; (2) the system offers clear criteria for clustering judicial enforcement acts (contextual search, court and judges, court decision, court case), a large set of filters for data search (by regional factor, by court instance, by time of adoption, by form of court decision, by subject of decision, by form of proceedings, by unique case number, etc;) (3) the system provides sufficiently fast data processing and presentation of information resources for viewing with the possibility of sorting documents and generating versions for printing electronic copies; (4) the system ensures reliable information protection, round-the-clock public access for everyone, and full access for authorised users, applies restrictions and blocking to avoid overloads.

European practices in the operation of digital platforms for judicial practices. The results of the review of certain foreign and international web portals of judicial practice confirmed that the Ukrainian analogue is not inferior in terms of convenience and efficiency of searching and researching court decisions. At the same time, despite the presence of typical components and options, each national database has its specific features that should be investigated in depth and evaluated from the standpoint of implementation in Ukraine.

The Belgian Court Judgments Database (n.d.), apart from the basic parameters, allows searching for texts in different languages, which is conditioned by the fact that three languages (Dutch, French, and German) are recognised as official; offers to read not only full texts of judgments, but also brief summaries of the case; opens an additional rubric of keywords in the drop-down list in the search fields. For instance, for the keyword "evidence", the database provides fourteen headings related to criminal proceedings with the number of decisions published on this issue. For example, "Evidence – Criminal cases – Witnesses – 568 documents", "Evidence – Criminal cases – Burden of proof. Discretion – 708 documents", etc. This approach, firstly, expedites the search, and secondly, improves the understanding of how

often a legal issue is discussed in the courtroom. Analogous parameters are offered by the Spanish Court Judgments Database (n.d.). In addition to summaries of judgments and keyword headings, this system allows for voice input. Spanish court judgments publish the names of the parties to the criminal proceedings and provide direct quotes in the judgments, making them resemble a transcript of a court hearing.

British lawyers number the paragraphs of judgments, which simplifies the navigation through the numerous facts, legal positions, and reasoning of judgments (UK Court Judgments Database, n.d.). It also facilitates the possibility of further citation of the document. The practice of numbering paragraphs of court decisions is also present in Germany, Lithuania, and international institutions such as the Court of Justice of the European Union and the European Court of Human Rights. The British database also has an option to automatically navigate to analogous content, which can also be a useful addition to information and analytical work with big data. UK court decisions are unique in their content, due to the specific features of mentality, historical and socio-cultural factors. In the text of guilty verdicts, judges, firstly, address the defendants personally, and secondly, do not neglect the opportunity to express their emotions, empathy, and admit to the complexity of resolving moral and legal dilemmas. All this turns the "dry" legal language of documents into a kind of philosophical essay. For instance, in a murder case, a judge may use the following wording: "This is a truly tragic case...", "You harmed three people with whom you had no disputes; they were long-term colleagues with whom you had been on friendly terms, none of whom had felt any threat from you in the past...", "I do not regard you as inherently wicked...", "I am grateful to the defence for drawing to my attention the case of...", etc. (Judgments of the Crown Court of United Kingdom…, 2024). German lawyers employ a completely opposite approach – a simplified window for searching for documents, and the decisions themselves are concise, brief, and contain a summary of the circumstances and the final outcome of the trial without any emotions (German Court Judgments Database, n.d.).

A feature of the Lithuanian database (Lithuanian Court Judgments Database, n.d.) is the mandatory informing of users about the possibility of reviewing decisions. The home page of this resource contains the following message: "Attention! Procedural decisions in first instance and appellate cases may be reviewed and amended by a higher court. Only final court decisions are legally binding". Lithuanian court decisions depersonalise defendants, but fully disclose the names of judges, prosecutors, probation officers, and court clerks.

To conclude the review, it is advisable to focus on useful additions that are built into the shells of the databases of the Court of Justice of the European Union (InfoCuria, n.d.) and the European Court of Human Rights (HUDOC Database, n.d.). This means the ability to open court decisions not only in HTML format, but also to download PDF or DOCX files, send them to email accounts, and share them on social media. This simplifies copying and storing data. The option to automatically set the time parameters "within the last 8 days", "within the last month", "within the last year", "within the last 5 years" is also convenient, as some systems, including the Ukrainian one, require accurate marks in the calendar of the start and end dates of the court decision or receipt of the court decision. A user of the CJEU database can easily select the current period.

Theoretical and practical significance of the functioning of the court decision database. Analysing the significance of the functioning of databases for judicial practices requires considering the political-legal, social, and procedural elements. The political-legal axiology is rooted in the fact that digitised court practices create opportunities for monitoring and evaluation of the state's domestic humanitarian policy in the field of law. This allows understanding what model of criminal procedure it builds and what fundamental principles it lays down as the basis for the rules and procedures of criminal prosecution, standards of proof, the way the right to defence, access to justice, reconciliation of the parties, etc., are ensured. In this regard, legal positions published in the decisions of the highest judicial authorities, as well as press releases on complex cases involving controversial political issues, are of exceptional significance. P. Meyer (2022) emphasised that press releases promote open justice; inform about the progress of certain proceedings, i.e., set the agenda; demonstrate transparency in conflict resolution by courts and promote a profound faith in the legitimacy of judicial proceedings.

The public value generally lies in the formation of a positive image of law enforcement, judicial, prosecutorial, and advocacy bodies through openness and transparency of their communication and the final results of the adversarial process. This increases trust in state institutions and convincingly proves that criminals will be punished, innocent people will be acquitted, rights and freedoms will be protected from arbitrariness, and justice will be restored. Admittedly, not all decisions meet all these requirements, but this is what the legislators sought to demonstrate when constructing the tasks of criminal proceedings in Article 2 of the Criminal Procedural Code of Ukraine (2012). As rightly noted by K. Javed and J. Li (2024), the judiciary plays a crucial role in upholding the rule of law, which is vital for the overall well-being of society. Legitimate legal decision-making is the primary goal of the rule of law. N. Mocan *et al.* (2020) confirmed that the quality of the judicial system considerably affects people's choice to break or not to break the law. On the contrary, a poor-quality judicial system increases the probability that people consider various types of dishonest behaviour acceptable. Therewith, general access to court decisions may increase conflict and nihilistic sentiments, as society may be impatient and seek instant results in sensitive high-profile cases, while the "cumbersome machine" of justice must work efficiently and in compliance with all procedures and standards.

The procedural significance of digital platforms for judicial practices is formed by three components: scientific, applied, and educational. As for first of these, the database of court decisions is a valuable source for the development of criminal procedure and forensic science. Certain legal institutions, standards, or individual cases become the subject of academic discourse and empirical research. The amount of data presented by a digitised court decision may vary depending on the form and procedure used. As a rule, the full set of data is presented by the decisions of higher courts that conclude the case, as well as by the decisions of the ECtHR. Table 1 summarises the findings of the systematisation of digitised court decisions with relevant examples of judicial practices.

Table 1. Data typology of digital platforms for judicial practices

No.	Data category	Data content	Examples of court decisions
1	Court decision metadata	➨ the date of the decision; ➨ date of entry into force; ➨ date of registration; ➨ date of granting public access; ➨ number of criminal proceedings; ➨ number of court proceedings; ➨ category of the case; ➨ place and judicial authority that made the decision.	Judgment of the Ternopil City and District Court of the Ternopil Region No. 607/13102/22 (2023); Resolution of the Supreme Court No. 278/3344/15-k (2024).
2	Data about the criminal offence	➨ legal qualification of the criminal offence; ➨ the factual circumstances of the criminal offence (who (data is impersonal), where, when, under what circumstances, with what tools and means, and in what manner committed the act); ➨ the amount and nature of the damage caused; ➨ motive and purpose of the offender; ➨ circumstances that characterise the personality of the accused, aggravate or mitigate the punishment, and are grounds for exemption from criminal liability or punishment; ➨ other circumstances stipulated by law.	Judgment of the Kropyvnytskyi Court of Appeal No. 404/5456/17 (2024); Decision of the investigative judge of the Shevchenkiv District Court of Kyiv No. 761/16582/24 (2024).
3	Data on pre-trial investigation	➨ compliance with the principles of criminal proceedings; ➨ measures to ensure criminal proceedings; ➨ list and results of investigative (detective) actions and covert investigative (detective) actions; ➨ legal positions of the prosecution and the defence; ➨ application of the special procedure of criminal proceedings; ➨ mistakes and shortcomings in the work made by the subjects of criminal activity, which became the basis for cancellation or amendment of the decision.	Judgment of the Pechersk District Court of Kyiv No. 757/10370/23-k (2023); Judgment of Chernyakhiv District Court of Zhytomyr Region No. 278/205/24, (2024); Judgment of the European Court of Human Rights No. 3016/16 (2024).
4	Data on evidence and proof	➨ lists of sources of proof, evidence, the method of obtaining them, and procedural design; ➨ method of examination and evaluation of evidence by the court; ➨ grounds for declaring evidence inadmissible; ➨ deciding on the status of material evidence.	Judgment of Kharkiv District Court of Kharkiv Region No. 635/3143/20 (2024); Judgment of the Halytsky District Court of Lviv No. 461/9870/20 (2024).
5	Data on court proceedings	➨ implementation of immediacy, publicity, openness, and other principles stipulated by law; ➨ exercise of procedural rights and powers by the parties to criminal proceedings in an adversarial trial; ➨ mistakes and shortcomings made by the court during the trial.	Resolution of the Supreme Court No. 758/1780/17 (2022); Resolution of the Supreme Court No. 278/3344/15-k (2024).
6	Data on motives of the investigating judge, court	➨ application of standards and norms (e.g., the concept of the fruit of the poisonous tree, the "beyond reasonable doubt" standard, the proportionality test, etc;) ➨ reasons for not considering certain evidence; ➨ reasons for refusing to satisfy applications for recusal, motions; ➨ reasons for upholding, changing, or cancelling court decisions; ➨ references to legal positions of the Supreme Court; ➨ references to the case law of the European Court of Human Rights; ➨ dissenting opinions of judges.	Resolution of the Supreme Court No. 359/9903/22 (2023); Judgment of the European Court of Human Rights Nos. 56540/14 and 57252/14, (2023).
7	Data on language of legal documents	➨ use of legal terminology; ➨ use of established "language formulas" to describe certain facts, phenomena, or processes; ➨ the way legal arguments are formulated.	Resolution of the Supreme Court No. 344/12021/22 (2024); Judgment of the Halytsky District Court of Lviv No. 461/9870/20 (2024); Judgment of the European Court of Human Rights No. 49134/20 (2024).

Source: developed by the author of this study based on data from the Unified State Register of Court Decisions (n.d.) and HUDOC Database (n.d.)

The scientific doctrine shows how court practice applies the rules of substantive and procedural law, especially when the period of innovation testing is ongoing. For instance, content analysis of court decisions helps to identify typical problems in the application of legal institutions. This knowledge encourages lawmakers to improve the legal regulation of criminal proceedings and to be more careful when proposing changes and additions.

Scientific research using digital platforms of court decisions may relate to (1) investigating general trends in

criminal justice and criminal procedural policy through the lens of court decisions; (2) studying court decisions in a single typical, unique, or high-profile case; (3) reviewing court decisions on a group of cases clustered by certain criteria, for instance: legal qualification of the act; the subject of decision-making; regional feature; temporal boundaries; method of committing the offence; application of a certain principle, legal institution, standard (e.g., the principle of access to justice, the institution of plea bargaining in criminal proceedings or the doctrine of the fruit of the poisonous tree); motives and assessments of the court; the method of performing certain procedural actions; position and/or activity of the defence, prosecution, other participants in criminal proceedings, etc. (the proposed list of criteria is not exhaustive).

Considering the study of a single sentence, one can employed *mutatis mutandis* depending on the research purpose, the template proposed by I. Hloviuk (2024). It makes provision for the study of such decisions according to the following indicators: presentation of the contextual element in the description of the factual circumstances; description of the violated legal provisions; formulation of the charge, which was found by the court to be proven; legal qualification of the act; evidence to support the circumstances established by the court; compliance with the guarantees of protection.

The practical value of databases for judicial practices lies in the ability to quickly search and access court decisions relevant to the request of a legal user working on an analogous case. In effect, a kind of digital consultation is taking place. For instance, an investigator or prosecutor studies the grounds for declaring evidence inadmissible in a particular situation to avoid mistakes in their procedural activities and understand the court's motives in making decisions. A lawyer may use information about inadmissible sources of evidence to emphasise the "weak" positions of the prosecution in their client's case. An example is the study by B. Liang and M. Hu (2023), where the researchers sampled acquittals and focused on the legal arguments of the defence, the effects of these arguments on the outcome, and the legal basis for the judges' not guilty verdicts.

The study of court practice may signal the need to strengthen the competence of lawyers. G. Kovács *et al.* (2022), based on an analysis of Hungarian court decisions, tried to establish the frequency of submission of contaminated DNA samples to the court and the court's assessment of genetic examination findings. The result, according to the researchers, was surprising, since among the analysed 29,409 court decisions from 1996-2021, only 2,181 mentioned DNA analysis, the concept of "contamination" and its synonyms in relation to DNA was mentioned in only 50 cases, and only 3 cases were relevant to the subject of the study. The rest concerned issues of mixed DNA, DNA transfer, destruction or degradation of biological material, poor work of personnel at the scene, and in more than half of the cases (26), the system simply provided false search results. On this basis, researchers expressed doubts regarding the quality of the courts' assessment of the evidence, as more contamination cases were actually expected, considering the complex process of detection, extraction, storage, and examination of DNA samples and the potential danger of contamination of such materials at each stage. G. Kovács *et al.* (2022) noted that judges should be aware of how DNA samples are contaminated and check whether professionals followed the quality policies and legislation regarding the collection, storage, and use of DNA materials in each case.

B. Custers (2024) formulated analogous conclusions regarding the need to strengthen the competence of the court. Based on the analysis of judicial practices, the researcher stated that a fair trial in the 21st century requires that courts and judges have a sufficient understanding of complex technologies in the cases in which they rule. Continuing this idea and considering the asymmetry of knowledge and information identified in judicial practice, which stems from the lack of understanding of judges of how a particular technology functions, B. Custers (2024) offered a discussion of the possibility of transferring technologically complex cases to specialised courts.

Apart from court decisions, transcripts of court hearings could be a valuable source of information on the evaluation and use of evidence. A. Bali *et al.* (2020) provided an example of an empirical study that analysed 137 court hearing transcripts. As a result, it was found that in 80 cases (60%), the courts accepted incorrect expert opinions and testimony without asking questions, as well as prosecutors referred to erroneous forensic evidence and testimony. Although this is not the only reason for false convictions, it is one of the significant factors of erroneous court decisions. Thus, it makes sense to discuss the idea of supplementing court decision databases with additional files containing court transcripts.

Having no experience of pre-trial investigation of a particular criminal offence under a certain legal qualification, an authorised entity can monitor court decisions and determine an indicative methodology for investigation, including a list of key procedural actions and material evidence seized in the case, areas of use of specialised knowledge, etc. The search for such data can be narrowed down to one's region to determine the rules of best practice in the location of the pre-trial investigation body, or vice versa, to expand the region if there are contradictions or no relevant court decisions at the local level. Judges and investigating judges also monitor the practice to get acquainted with the legal positions of higher judicial bodies, the experience of their colleagues in resolving complex, atypical issues, and the positions of the European Court of Human Rights. This institution extends far beyond the praxeology of "individual justice", forming the foundation for a universal, supranational human rights paradigm (Dufeniuk, 2021a).

Thus, from a practical standpoint, the value of court decision databases lies in the fact that they can, firstly, act as a kind of "digital consultant" on problematic issues of law enforcement practice, providing hints on how a particular legal problem was previously resolved, what were the patterns of activity of the defence, prosecutor, court, other persons in certain categories of cases, etc. Secondly, to serve as a kind of "alarm indicator", i.e., to signal gaps and shortcomings in legislation, interpretation of rules, and staff competence that create obstacles to fair justice.

The court decision databases are used for educational purposes, as law students can observe how "rules-in-theory" and "rules-in-law" are transformed into "rules-in-action". For future lawyers, it is valuable to study impersonal case files to focus on the language and terminology of legal documents, the logic of assessments and judgements, and

compliance with procedures. They must be thoroughly aware of the possibilities of information and analytical work with such resources to be capable of effectively using the beneficial features of digital platforms for judicial practices in their professional activities. For lecturers, these resources are a valuable source of illustrative material for lectures, preparation of quests, problem situations, debates, and other interactive learning tasks. Such a practice-oriented approach allows verifying knowledge, bringing students closer to the conditions of investigation and trial of real criminal offences, developing critical thinking and information and analytical skills.

Risks and problems of using court decision databases in criminal proceedings. Despite its considerable positive value, the functioning of digital platforms of court decisions is fraught with certain risks and challenges. Firstly, search algorithms may produce inaccurate results (e.g., the system produces rulings and sentences instead of verdicts). There is a risk that not all solutions found by contextual search may be relevant to the query, and therefore generalised quantitative indicators of the documents found should not be considered *a priori* correct. To verify the result, one will have to open each document separately. Some decisions are not entered into the system at all, which should also be considered when researching judicial practices. Inconveniences also arise from the lack of the ability to download documents in PDF or DOCX format. To create a citation of a court decision, one has to manually copy and format the metadata and the relevant links to the electronic page. This drawback could be eliminated by adding a button to the open document interface to automatically generate citations in various formats of the user's choice. Such a mechanism has long been used in the scientific field, where a link to a publication can be generated or copied and easily added to one's research.

Secondly, the system can detect flaws in ensuring data anonymity. Automated anonymisation algorithms may mistakenly miss data on the accused, the victim, or other information that may help identify the event and participants in the criminal procedure. However, this drawback is not relevant for the European Court of Human Rights database (HUDOC Database, n.d.), where the name of the complainant is not subject to any coding, but other personal information is not made public.

F. Baumann and F. Fagan (2023) discussed the dilemma of anonymity of personal data of judges. The researchers agreed that open information about the "author" of a court decision is of public benefit but noted that judges may be less forthright in their decisions and oral explanations due to the awareness that they are being watched by the public. They try to avoid accusations of bias, worry about career growth or possible disgrace due to their decisions and actions, and therefore alter their behavioural strategy. This, according to researchers, creates a situation where "more" information does not mean "better".

Thirdly, digital platforms of court decisions provide general access to documents that may have differing versions of decisions on the same legal issue. The lack of uniform practice arises from differences in the interpretation of certain rules and institutions of substantive or procedural law. This risk should be considered when reviewing a particular judicial practice. Higher judicial authorities formulate legal positions with the purpose of unifying approaches, although they do not always manage to do so in a prompt and high-quality manner. In some cases, the Supreme Court deviates from its previously expressed positions. Considering the above, the Database of legal positions of the Supreme Court (Database of legal positions of the Supreme Court, n.d.) should be used as an additional source of information in the empirical study of judicial practices.

Fourthly, the texts of court decisions are largely formed based on textual information from criminal proceedings, documents of the prosecutor and investigator. Linguistic and stylistic errors and incorrect wording at the pre-trial investigation stage are sometimes duplicated further. In this case, it is difficult to discuss the possibility of using a court decision as an example of a legal document. Errors can be not only formal but also substantive, for instance, inappropriate references to the case law of the European Court of Human Rights (Dufeniuk, 2021). The national registry also does not allow checking whether a court decision was appealed, amended, or cancelled. In the context of this discourse, it is also worth noting that the lack of paragraph numbering in most court decisions complicates findings certain data, evaluations, and judgements, especially in cases of large verdicts and rulings.

Fifthly, a special simplified procedure for consideration of materials (when there are legal grounds, and no one disputes the facts and evidence provided by the parties) contributes to the implementation of the principle of reasonable time and saving procedural resources. At the same time, verdicts in such cases are not highly informative in terms of forensic tactics and methodology. They do not contain a list of procedural actions and a brief summary of their results, the court's assessment of the admissibility of evidence, etc.

Lastly, the information contained in court decision databases constantly needs to be protected from cyber threats. In special situations, public access to the information in such databases may be restricted, as happened after the outbreak of a full-scale aggressive war in Ukraine (Burtnyk, 2022). For several weeks in a row, the Unified State Register of Court Decisions was blocked, which made it impossible to review the practices of solving urgent problems of applying measures to ensure criminal proceedings, resolving applications for permission to conduct investigative (search) actions, etc., under martial law.

Considering the above analysis, it is possible to formulate ways to optimise the functioning of the Unified State Register of Court Decisions (n.d.). One of the key trends in the digital transformation of criminal justice involves the development of information and analytical tools (including the use of artificial intelligence) for working with documents posted on the digital platform of judicial practices. This task can be achieved by adding the following options:

- a special note (signal information) that the court decision was amended or cancelled with a hyperlink to the relevant document;
- summarisation of the text of court decisions (a brief summary of the circumstances and content of the decision);
- the ability to automatically generate a citation of a particular court decision;
- the ability to download a court decision in HTML, PDF, or DOCX format of the user's choice;
- the ability to send a court decision file to a mailbox or share it on social media;
- the ability to select a time period in one action (last week, last month, last year, last five years).

Apart from these innovations, it is advisable to extend the practice of numbering paragraphs of the reasoning part of court decisions; to supplement the educational programmes of future lawyers with an additional module on working with various databases of court decisions to prepare competent professionals to work in the field of criminal justice in the digital age; to strengthen links between different databases of court decisions. Examples of such integration already exist. For instance, the Database of legal positions of the Supreme Court (n.d.) allows following a link to a court decision posted in the Unified State Register of Court Decisions (n.d.). In the future, it is expected that such a link will be available to the content of the HUDOC database.

Conclusions

The proposed study is the first paper in the Ukrainian scientific doctrine to examine the theoretical foundations of using the resources of digital platforms for judicial practices for research, optimisation of practice, and the educational process. A systematic analysis of the legal regulation of the procedure for publishing court decisions in open databases suggests that in Ukraine, the implementation of the principle of publicity and openness of court proceedings is a logical continuation of ensuring general access to court decisions. These documents with anonymised data are published in the Unified State Register of Court Decisions. The Ukrainian platform of digitised documents is not inferior to its Western European counterparts in terms of content, document clustering, search filters, data processing speed and information protection. At the same time, the study revealed a lot of room for development and improvement based on the best practices of international institutions.

The database of court decisions is useful for the state, as it allows presenting humanitarian policy in a broad sense, which defines the model of criminal procedure and the fundamental principles of criminal justice (political and legal value). For society, its significance lies in the fact that it demonstrates the openness and transparency of law enforcement and judicial bodies and increases trust in state institutions (public value).

The procedural value of digital platforms for judicial practices is formed by scientific, applied, and educational components. At the theoretical, scientific level, the database of court decisions provides ample opportunities for empirical research and academic discussions. At the applied level, it is a "digital consultant", a source of information for investigators, prosecutors, judges, defence counsel, victims, and others about a criminal offence, the practices of pre-trial investigation or court proceedings, evaluative judgements, motives, court reasoning, application of principles, presumptions, standards, and procedures. The explanations set out in the legal positions of the highest judicial bodies contribute to the unity of judicial practice. In addition, databases of court decisions can serve as a kind of "warning indicator", as they enable a critical assessment of the state of legal support and the competence of law enforcement personnel. At the educational level, the digitised documents of "Themis" present the functioning of legal institutions in real life, legal language, and argumentation. Additionally, these resources can serve as the basis for preparing educational tasks, quests, simulations, and other forms of interactive learning.

Risks and problems of using court decision databases include inaccurate search results and certain analytical limitations; flaws in ensuring the anonymity of personal data; lack of uniform court practice; incorrect wording copied from fragments of documentation of prosecutors and pre-trial investigation bodies; low information content of court decisions made under a simplified procedure; the need to constantly protect data from unauthorised interference and restrict access in extraordinary situations. Considering the best European practices, the study formulated concrete proposals for improving information and analytical tools for working with text documents and recommended that the educational programme for future lawyers should include a thematic module on working with court decision databases to train competent professionals in the field of criminal justice.

Promising areas for further research include the development of algorithms for improving the functionality of databases and forecasting court decisions based on artificial intelligence technologies, the development of methodological recommendations for the use of these resources in the scientific, practical, and educational spheres, and the study of the issues of integration of various digital platforms of judicial practice.

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Conflict of interest

None.

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Цифрові бази даних судових рішень у кримінальному процесі: значення, ризики та оптимізація використання

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Анотація. Актуальність статті обумовлена, по-перше, глобальною тенденцією цифровізації судової практики, що вимагає адаптації до нових реалій, по-друге, недостатньою розробкою теоретико-методологічних засад використання такого ексклюзивного джерела для розвитку правової науки і практики. Мета дослідження полягала у формуванні на концептуальному рівні основ ефективного використання баз даних судових рішень у кримінальному процесі для наукових досліджень, оптимізації практики та освітнього процесу. Кластер методологічних інструментів дослідження охоплював системний, компаративний, синергетичний, ризик-орієнтований підходи та методи формальної логіки. У роботі узагальнено дані щодо процедури оприлюднення судових рішень у Єдиному державному реєстрі судових рішень України, а також проведено огляд європейського досвіду функціонування цифрових платформ судової практики. Встановлено, що українська платформа оцифрованих документів схожа на європейські аналоги. Вона є джерелом метаданих судових рішень, даних про кримінальне правопорушення, досудове розслідування та судове провадження, докази, мотиви суду та специфічну мову юридичних документів. Це дає змогу не тільки реалізувати засаду відкритості судового провадження, доступу до судових рішень, але й розглядати ці ресурси в аксіологічному контексті, що об'єднує трилогію компонентів (політико-правова, соціальна та процесуальна складові). Дослідження також показало ризики, обмеження та проблеми використання баз даних судових рішень, наприклад, неточність результатів пошуку чи обмеження доступу до системи в екстраординарних випадках. Запропоновано удосконалення національної платформи шляхом додавання опцій. Практична цінність дослідження полягає у презентації для широкої аудиторії можливостей використання цифрових платформ судової практики та формулюванні пропозицій оптимізації інформаційно-аналітичних інструментів Єдиного державного реєстру судових рішень

Ключові слова: кримінальне провадження; суд; процесуальні рішення; інформаційно-аналітична діяльність; цифрова документація

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Relevant problems of humanisation of the execution of liberty deprivation under the legislation of Kazakhstan: An international comparative analysis

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Abstract. This research's relevance lies in the nation's continuous initiatives to reform Kazakhstan's criminal justice system, reduce recidivism rates, and coordinate its penal policies with international restorative justice standards, especially as it aims to reduce dependence on incarceration and improve the efficacy of probation and alternative sentencing strategies. The purpose of the study was to identify new forms of influence on criminals in the context of restorative justice. This study utilised comparative legal analysis, doctrinal legal research, and functional legal analysis to assess the efficacy of restorative justice and alternative sentencing in Kazakhstan, Germany, Spain, and the United States. The analysis of the fundamental international documents that regulate the legal status of persons convicted of a criminal offence using mitigating penalties and their impact on the formation of national criminal law is conducted. The study indicated that restorative justice procedures, including probation, suspended sentences, and mediation, result in reduced recidivism rates and enhanced rehabilitation efficacy relative to solely punitive methods in Kazakhstan. The comparative analysis indicated that Germany and Spain have systematically incorporated restorative justice into their legal frameworks, facilitating more effective offender reintegration, while Kazakhstan continues to emphasise incarceration, leading to elevated recidivism rates and financial burdens for the penal system. The results substantiated that alternative sentencing alleviates prison congestion and diminishes state costs, reinforcing the assertion that Kazakhstan's legislative system necessitates more modifications to conform to worldwide best practices. The practical importance of this study is to identify new instruments of influence on persons who are criminally responsible from the standpoint of restorative law, humanisation of criminal law, rehabilitation practice, and international experience in influencing offenders

Keywords: restorative justice; criminal offence; mediation; out-of-court settlement mechanisms; mediation

Introduction

The development of international law has led to increased social standards and radically changed the approach to the issue of correction and adaptation of offenders. In many countries, the practice of reducing the use of deprivation of liberty and replacing it with alternative methods has emerged. The rising need to overhaul Kazakhstan's criminal justice system, especially in relation to restorative justice methods and alternative sentencing, defines the importance of this study. Despite continuous improvements, Kazakhstan has high imprisonment rates and a mostly punitive attitude

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to criminal sanctions, which does not sufficiently solve problems including recidivism, rehabilitation, and social reintegration. At the regional level, as incarceration is still the major form of punishment, Central Asia struggles similarly in juggling punishing policies with restoring strategies. To lower the social and financial consequences of incarceration, the worldwide trend stresses, nonetheless, rehabilitation, community-based alternatives, and mediation techniques. International legal tools support criminal justice systems to embrace more humane methods by integrating the Bangkok Rules and the United Nations recommendations on non-custodial measures. This study adds to the theoretical and pragmatic debate in legal research on criminal mediation, its incorporation into national legal systems, and the efficacy of alternative sentencing in lowering recidivism and thereby fostering social reintegration. The results will offer insightful analysis of the institutional and legislative requirements for the effective use of restorative justice methods in Kazakhstan, therefore matching the national legal system with contemporary international norms.

A.A. Biebayeva *et al*. (2021) investigated the dynamics of the development of the criminal legislation of the Republic of Kazakhstan. They identified the trend of humanisation in criminal prosecution by way of exemption from criminal liability, expanding the grounds for exemption from criminal punishment and parole. The international community has drawn attention to the use of correctional labour as punishment for criminal misconduct. The Republic of Kazakhstan's young population is facing a situation of concern regarding the lack of employment.

Due to the development of international law and the growth of social standards in society, the approach to the issue of correction and adaptation of offenders has changed substantially. D. Mukasheva *et al.* (2023) concluded that in 2021, only three applications were sent to the national provider of social project funding for the social support of released citizens. This shows that non-governmental organisations are not giving rehabilitation services enough attention, even though Kazakhstan has made changes to improve social rehabilitation mechanisms for citizens who have been released from detention. Emphasising the need for exemption from punishment for people demonstrating genuine repentance and a dedication to lawful behaviour, A. Ryssaldiyeva *et al.* (2019) found that the effective realisation of the preventive functions of criminal punishment in Kazakhstan depends on a fair and lawful penal correction system. They support a mixed strategy that preserves liberalism and humanism in punishment, therefore assuring that these values do not compromise the fairness and inevitable nature of criminal penalties. I. Palvanov (2020) paid attention to the use of probation as an alternative to imprisonment. In world practice, probation is considered the best way to contribute to the correction and rehabilitation of a convicted person. Probation services in different countries perform different functions, ranging from monitoring convicts, conducting preventive and educational work, ending with the introduction of various innovative programmes that help reduce crime. There is also a problem in the implementation of prison system programmes due to insufficient funds for their implementation. Criminal punishment in the form of imprisonment has many negative properties. It should not violate generally accepted human rights and cause physical suffering. The strategy regarding persons, depending on the severity of the offence, can be implemented in two directions: exemption from criminal liability and mitigation of punishment (Spytska, 2023).

Drug use often leads to criminalisation, especially among the younger generation of people. R. Tanwar (2023) conducted an analysis of the situation that has developed in connection with crimes committed by minors in India. The country's legislative framework allows for the prevention, treatment, and rehabilitation of drug abusers. Despite this, there are problems in the implementation of the rights of minors, namely: limited access to specialised medical institutions, low awareness of the population, lack of coordination between departments. Violations of the rights of such persons were observed in court proceedings and in correctional institutions. The humanisation of responsibility for criminal offences generates new forms of influence on offenders. A. Korenyuk (2019) described one of the most popular alternative ways to resolve conflicts – mediation. The involvement of a mediator helps the parties to the conflict to establish a communication process, analyse the conflict situation in such a way that the parties themselves can choose a solution that satisfies the interests and needs of both parties to the dispute. Mediation between the victim and the offender is designed to conclude agreements reflecting the offender's responsibility for the loss and suffering of the victim through compensation (Khovpun *et al.*, 2024). Mediation is especially common among juvenile offenders. With its help, schoolchildren and students learn to resolve conflicts not through violence but through negotiations and compromises.

Despite the adoption of a number of documents regulating the legal status of persons who have committed crimes, the problem of humanisation in relation to them remains open. In the context of criminal proceedings, restorative justice has found its place. Given the nature of such relationships, the issue of introducing innovative forms of influence on people who have crossed the law requires additional study. The purpose of the study was to identify effective methods within the framework of existing legal norms that contribute to the correction, rehabilitation, and socialisation of convicts.

Materials and methods

This study's approach includes a comprehensive investigation of both international and national legal frameworks that influence the implementation of restorative justice and alternative sentencing systems. The primary legislative texts examined are the Criminal Code of the Republic of Kazakhstan (2014) and the Criminal Procedure Code of the Republic of Kazakhstan (2014), which delineate the principles of criminal culpability, sanctions, and procedural mediation frameworks. Law of the Republic of Kazakhstan No. 38-IV "On Probation" (2016) was analysed to comprehend Kazakhstan's progressive methodology for rehabilitation and reintegration. The analysis also assesses the Law of the Republic of Kazakhstan No. 401-IV "On Mediation" (2011), which governs out-of-court resolutions for light and moderate offenses but lacks thorough incorporation into prosecutorial processes. A comparative legal analysis was conducted, examining the German Criminal Code (2021) and the German Code of Criminal Procedure (2024), both of which systematically incorporate mediation and alternative sentencing. Likewise, the Spanish Criminal Code (2015) and the Spanish Judiciary Act (1985) were examined for their stipulations on sentence suspension by reconciliation.

The study examines the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules, 2010) and the Principles of Restorative Justice (2021), highlighting the need for gender-sensitive rehabilitative strategies. Additionally, the research analyses Latvian Criminal Law (2000) to compare methodologies in mediation and dispute resolution. In evaluating probation and alternative sentencing frameworks, the U.S. Code: Title 18 "Crimes and criminal procedure" (1970) was examined, specifically concerning suspended sentences and parole. The dynamics of prisoner populations were assessed utilising statistical data from sources like the World Prison Brief (2021) and reports from Kazakhstan's Prosecutor General's Office, concentrating on variations in imprisonment rates subsequent to law amendments. The dynamics of criminal offences were examined through an analysis of official crime statistics, identification of trends in offence categories, and evaluation of the impact of restorative justice initiatives on crime reduction.

The comparative legal method is fundamental to this research, enabling an investigation of various legal systems to discern optimal practices and areas necessitating modification. This approach entails a comparative analysis of the Criminal Code of the Republic of Kazakhstan (2014) with analogous laws in in Germany, Spain, and the United States (U.S. Code: Title 18 "Crimes and criminal procedure", 1970; Spanish Criminal Code, 2015; German Criminal Code, 2021). The selection of these jurisdictions is predicated on their unique legal traditions: Germany's systematic incorporation of mediation, Spain's judicial discretion in sentence suspension, the U.S. paradigm of probation and parole, and Kazakhstan's developing legal framework. Data from the World Prison Brief (2021) and reports from the Prosecutor General's Office of Kazakhstan are utilised to evaluate imprisonment rates and alternative sentencing practices in these nations. A systematic and structural analysis is utilised to assess the interplay of criminal policy, legislative efforts, and their actual execution.

Doctrinal legal research is employed to examine main legal sources, such as national criminal codes, procedural statutes, and international treaties. The study assesses the German Code of Criminal Procedure (2024), the Spanish Judiciary Act (1985), and the Criminal Procedure Code of the Republic of Kazakhstan (2014) to evaluate the regulation of restorative justice and alternative sentencing within these legislative systems. The functional legal analysis evaluates the practical operation of criminal legislation, probation systems, and mediation procedures. Data from the World Prison Brief (2021), and A.L. Roddy and M. Morash (2020) are employed to assess the influence of restorative justice initiatives on recidivism rates. A sociological and criminological approach is applied to assess the comprehensive effects of restorative justice initiatives on criminals, victims, and society. This approach synthesizes insights from criminology, psychology, and social sciences to assess the impact of alternative punishment on social reintegration.

Results

Society needs new measures to counter crime since punitive measures are not effective enough to ensure public order. In the last few decades, the concept of restorative justice has been introduced into these structures. Victims engaged in restorative justice conferencing indicated a decrease in post-traumatic stress. Meta-analysis by C.S. Kimbrell *et al.* (2023) found that victims in restorative justice programs reported higher satisfaction levels compared to those in traditional justice systems. In experimental restorative justice groups, 80% of victims expressed satisfaction with the process and outcomes, indicating more contentment than victims in control groups, while offenders engaged in restorative justice committed fewer offences in the following two years compared to the control group (Evidence briefing, 2022). A meta-analysis has shown that restorative justice programs are superior in enhancing victim-offender satisfaction, augmenting offender compliance with reparation, and reducing offender recidivism relative to conventional criminal justice solutions. Adolescents engaged in conferences had a markedly lower likelihood of rearrest six months post-incident, with rearrest rates of 20% for those who participated in conferences, in contrast to 34% for the control group (Department of Justice Canada, 2022). It is aimed not at the application of punitive measures but at the correction, re-socialisation, and rehabilitation of offenders. Against this background, many alternative methods have emerged that are applied to offenders, which should positively influence them and thereby improve the overall well-being of society. A special place in restorative justice is occupied by the world practice of working with persons who have committed minor and moderate offences.

Based on the priority of human values, the nature of criminal penalties has changed towards mitigation. Punishment should be rehabilitation and correction and not a method of infringing on human rights. This idea is reflected in the norms of criminal law, exemplified by Article 72 of the Criminal Code of the Republic of Kazakhstan (2014), which permits parole and conditional release based on rehabilitative potential. Article 56 of the German Criminal Code (2021) also stipulates suspended sentences for offenders who exhibit regret and a desire for societal reintegration. Article 84 of the Spanish Criminal Code (2015) stipulates that the suspension of a sentence is contingent on the offender's adherence to restorative measures. These laws exemplify the legal evolution favoured by rehabilitation above punitive measures, in accordance with international human rights principles. It is necessary that law-making follows generally accepted objective and formal legislative rules to coordinate the goals of criminal policy (Jassim, 2020). The adoption of legislative acts is closely linked to the criminal policy of the state. The combination of a consistent criminal base with criminal policy, together with practical application, will serve as a guarantee of legality for those who have committed a criminal offence.

Restorative justice does not stop at generally accepted methods of mitigating the punishment of criminals. The international experience of foreign countries shows that probation is an alternative form of imprisonment. Globally, probation is acknowledged as a feasible substitute for imprisonment, with several nations establishing legislative structures to facilitate offender rehabilitation and diminish recidivism (Kolb *et al.*, 2023). This method corresponds with the worldwide transition to restorative justice, prioritising rehabilitation rather than retribution. Multiple countries have implemented probation statutes, facilitating the resocialisation and reintegration of criminals into society,

regarded as a strategy to mitigate prison congestion, diminish the adverse impacts of prolonged imprisonment, and eventually decrease recidivism rates.

Germany illustrates this concept through its legislative system that prioritises rehabilitation. The German Prison Act seeks to rehabilitate convicts for reintegration into society by emphasising resocialisation. This method has led to reduced imprisonment rates and recidivism. Article 56 of the German Criminal Code (2021) permits suspended sentences and probation, granting judges the discretion to impose non-custodial punishments for minor and moderate offences, especially where the offender demonstrates regret and a little risk of recidivism. Likewise, Spain has integrated probation into its legal framework under Article 84 of the Spanish Penal Code (2016), permitting the suspension of penalties contingent upon the offender's compliance with probationary stipulations, including community service or rehabilitation programs. Spain's legal system prioritises probation as a mechanism to promote social reintegration and diminish the probability of recidivism, especially for first-time and non-violent offenders. Spain's dedication to probation underscores its emphasis on alternative penalties rather than conventional imprisonment.

In the United States, probation is a prevalent alternative to incarceration, particularly for non-violent crimes. U.S. Code: Title 18 "Crimes and Criminal Procedure" (1970), Section 3563, delineates the terms of probation, which encompass counselling, employment obligations, and regular reporting to probation officials. Despite the extensive use of probation, the United States contends with elevated imprisonment and recidivism rates. Recent changes, exemplified by those in Georgia, indicate a transition towards diminishing the duration of probationary periods. The program in Georgia permitting early termination of probation for qualifying persons has resulted in a decrease in the probation population, perhaps aiding in the lowering of recidivism rates over time.

The international experiences of nations like Germany, Spain, the United States, and Finland demonstrate the efficacy of probation in diminishing recidivism and promoting rehabilitation. Research in the United States demonstrates that high-quality probation supervision can markedly enhance outcomes. For example, a study by HM Inspectorate of Probation (2023) revealed that improved supervision resulted in a 14% decrease in reoffending rates and a 24% increase in sentence completion rates relative to substandard supervision. In Germany, research by S.L. McGuire (2022) indicates that probationers who have organised support and therapy exhibit a lower likelihood of reoffending compared to those who do not receive such assistance. The emphasis on rehabilitative programs rather than punitive measures has been essential to reducing recidivism rates in several states.

Finland distinguishes itself by its unique probation strategy, which prioritises conditional detention and rehabilitation rather than conventional punishment measures. The Finnish approach has produced some of the lowest recidivism rates in Europe, with figures showing that about 30% of criminals reoffend after three years, in contrast to elevated rates in more severe systems (Linderborg *et al.*, 2020). This achievement is ascribed to extensive support networks that aid persons in reintegration into society, underscoring the capacity of probation to reconcile public safety with rehabilitation requirements. These findings highlight the significance of effective supervision and assistance in promoting favourable results for criminals, hence reducing the burden on correctional institutions and improving community safety.

Kazakhstan already has a probation law, which is spelt out in Article 4 of Law of the Republic of Kazakhstan No. 38-IV "On Probation" (2016). The country would benefit from adopting the best ideas from these other countries. This might guarantee that probation serves not just as an alternative to jail but also as an effective method for diminishing recidivism and facilitating social reintegration. For probation to be genuinely successful, it is imperative for governments to invest sufficient funding for support services, including education, employment programs, and psychological counselling. In the absence of these tools, probation may devolve into a simple administrative formality instead of serving as an instrument for rehabilitation. Although incarceration is essential for certain crimes, overdependence on imprisonment may result in detrimental social effects, such as elevated recidivism rates and stretched public resources. Implementing probation, accompanied by extensive services, addresses the root reasons of criminal behaviour, promotes human growth, and improves public safety. The efficacy of probation programs relies on adequate execution, which encompasses personalised case management and ongoing assessment to guarantee their performance.

Differentiation of crimes for which a suspended sentence can be applied due to the insignificance of crimes, the presence of mitigating circumstances, and the social characteristics of the offender (Yusupdzhanova, 2022). In Germany, a court issues a suspended sentence on the condition that the convicted person has promised not to commit crimes in the future, repents of what they have done and treats them positively. In such cases, they are sentenced to imprisonment for up to one year (Dünkel, 2019). In Japan, probation is based on a suspended sentence. If, during the probation period, the duties assigned by the court are violated, and the offender commits a crime again, the postponement of serving a sentence is cancelled, and the previously imposed sentence enters into force. In US criminal law, there is a suspended sentence and a reprieve from punishment.

Deprivation of liberty, particularly during childhood, can result in numerous adverse outcomes, including psychosocial health issues, hindered cognitive development, substance use disorders, self-harm and suicidal tendencies, sexually transmitted infections, other infectious diseases, chronic illnesses, and violence-related injuries. It may exacerbate pre-existing health issues and result in the loss of educational and personal opportunities, along with stigma and challenges in societal reintegration. Restorative justice and alternative measures, such as fines and community ser vice employed in Finland, seek to mitigate the adverse consequences of incarceration by substituting punitive actions with conditional detention. Legislative initiatives aim to enforce international laws and standards, explore alternative methods to incarceration, and develop recommendations for action at national, regional, and international levels to fulfil international obligations and decrease the number of children deprived of liberty. The objective is to guarantee that the denial of liberty is employed just as a measure of last resort and for the minimal necessary duration (Miller *et al.*, 2022).

U.S. Code: Title 18 "Crimes and criminal procedure" (1970) pertains to activities deemed detrimental to society, differentiating itself from civil law, which resolves conflicts between people. Every state, working alongside the

federal government, possesses a distinct criminal code that defines offences and corresponding penalties, illustrating discrepancies in the conduct deemed criminal. The U.S. criminal justice system functions through federal and state courts, with state courts generally managing a wider array of cases, encompassing familial conflicts, traffic infractions, and criminal acts, whereas federal courts focus on breaches of federal law, bankruptcy, and other specialised domains (Makhambetsaliyev *et al.*, 2024). The scope of criminal law is extensive, including the formulation, implementation, and enforcement of regulations pertaining to unlawful behaviour, and it evolves with society transformations to uphold justice. Criminal law aims to safeguard society, uphold order, and guarantee public safety by establishing parameters for permissible conduct. U.S. sentencing rules are strict, with policies established in the 1980s and 1990s leading to extended jail sentences that have exacerbated mass imprisonment (Lattimore *et al.*, 2021). Notwithstanding small legislative modifications, comprehensive reform is essential. Title 18 of the U.S. Code mandates minimum sentence provisions that restrict judicial discretion, frequently resulting in excessively severe punishments.

The American punitory system needs to be reformed, namely: changes in the norms on life imprisonment without the right of early release; the introduction of the principle of fairness in sentencing; creating conditions for the introduction of the practice of probation and parole; the creation of treatment and rehabilitation programmes. The Marijuana Addiction Recovery Programme was introduced in Madison, Wisconsin, with the goal of reducing drug-related crime and thereby strengthening public health and safety (Diversion and Deflection Programs, 2023). By offering drug addiction treatment instead of arrest and prosecution on criminal charges, the programme exempted its clients from punishment before arrest. The project involved law enforcement agencies and the court, public health authorities, and the scientific community. In the process of cooperation between law enforcement agencies and medical partners, an assessment of the need for treatment is formed according to the procedural legislation of the state (Zgierska *et al.*, 2021). The disadvantage of this project is that, despite the evidence of the effectiveness of treatment in reducing the harm caused to society by drug addicts, very few people receive it.

Deprivation of liberty has a more pronounced criminogenic effect on drug offenders than on other categories of offenders. Recent legislative changes, including the implementation of life imprisonment for severe drug-related offences, signify a punitive strategy aimed at preventing drug trafficking and manufacture, which have become increasingly pervasive in the nation. Nevertheless, this stringent punitive structure may unintentionally intensify the criminogenic impacts on drug offenders. Studies demonstrate that prolonged incarceration might elevate recidivism rates among drug offenders, as imprisonment frequently neglects to tackle fundamental concerns such as addiction and socioeconomic variables that drive criminal behaviour. In Kazakhstan, the government recognises substantial deficiencies in the rehabilitation and treatment of drug users; the emphasis on punitive measures, lacking sufficient reintegration assistance, may sustain a cycle of criminality among this population (Khamzin *et al.*, 2022). Consequently, although the state seeks to address drug-related crime with stringent punishments, the absence of thorough rehabilitation techniques may result in a more ingrained criminal identity among offenders, underscoring the necessity for a balanced strategy that incorporates both deterrence and assistance.

The research conducted by V. Tomaz *et al.* (2023) shows that incarceration for drug-related offences in Belgium is inefficient, since it does not address organised crime, recidivism, rehabilitation, or the specific requirements of individual offenders. The effectiveness was assessed by analysing recidivism rates, rehabilitation results, and the cost implications of imprisonment for the state. Kazakhstan has faced similar challenges in addressing its criminal justice system's effectiveness in rehabilitating convicts and reducing recidivism. Notwithstanding attempts to diminish the jail population, the system continues to be punitive, with a substantial percentage of convicts (95%) convicted of violent offences. Recidivism following incarceration continues to be a significant problem in Kazakhstan. Around 18,000 individuals have served two or more jail terms, indicating a lack of success in rehabilitation and reintegration efforts. The expense of imprisonment is considerable. For instance, incarcerating a person for the theft of things valued at 10,000 tenge ($67) incurred a cost of 2 million tenge to the state (Mukasheva *et al.*, 2024). The budget for the penitentiary system rose by 54% over four years, totalling 50 billion tenge, not including infrastructure costs. The criminal system's emphasis on punishment over resocialisation has led to diminished rehabilitation rates. Insufficient alternatives to incarceration and obstacles to parole utilisation exacerbate this.

United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules) (2010) recognise that conventional jail systems frequently neglect the distinct needs of female offenders and may intensify their vulnerabilities. In Kazakhstan, as in several other nations, this acknowledgement underscores the necessity for reform regarding the treatment of women within the criminal justice system. The regulations promote gender-sensitive strategies that emphasise non-custodial alternatives, acknowledging that imprisonment may be ineffective for women and might cause more harm, especially considering their responsibilities as primary carers. Consequently, there is a growing need for the implementation of alternative methods that take into account women's unique circumstances and prioritise rehabilitation over punishment. In the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules), it is recognised that prisons are usually ineffective in combating female crime and often cause harm to them. They hinder the social reintegration of women and limit their opportunities for a fruitful and law-abiding life after liberation. The costs resulting from recidivism go beyond the costs of victims, offenders, law enforcement agencies, courts, and probation authorities and require a new approach to offenders and the application of additional corrective measures. Working with female offenders, the probation service needs to facilitate women's job search and employment.

A.L. Roddy and M. Morash (2020) demonstrated a forward link between the communication styles of probation professionals and the job results for women on probation or parole. Criminal mediation is an alternative form of dispute resolution outside of court. It may occur in the case of minor crimes. The communication methods employed by probation officers might directly impact the job-seeking self-efficacy of female offenders, thereby influencing their employment prospects. The research by A.L. Roddy and

M. Morash (2020) indicated that a conversational communication style, marked by supportive and engaging dialogue, correlated with heightened job-seeking self-efficacy in women, whereas conformity-orientated communication resulted in diminished self-efficacy due to feelings of reactance, wherein clients perceive a threat to their autonomy. The probation and rehabilitation system in Kazakhstan markedly contrast with the techniques outlined in A.L. Roddy and M. Morash's (2020) study. The U.S. strategy prioritises supportive communication from probation officers to enhance job outcomes for women, whereas Kazakhstan's probation programs are at a developmental stage. Founded in 2012, Kazakhstan's probation agency emphasises the development of personalised programs for offenders with suspended sentences, while participation is voluntary. Initiatives like the Post-Release Monitoring and Probation of Returning FTFs and Violent Extremist Offenders, along with digital tools for risk and needs assessments, have been implemented to modernise the system (UNODC, 2024). Nevertheless, they predominantly address general offender categories rather than gender-specific requirements.

The Law of the Republic of Kazakhstan No. 38-IV "On Probation" (2016) signifies a pivotal transformation in Kazakhstan's criminal justice framework, intending to diminish imprisonment rates and foster rehabilitation via organised oversight and socio-legal assistance. The legislation defines probation as a series of corrective measures customised for individual offenders, highlighting a rehabilitative approach over a punitive one, in accordance with international best practices in criminal justice reform. The Act classifies probation into several phases, including pre-trial, trial, post-sentencing, and post-incarceration, facilitating continuous offender supervision and mitigating recidivism risks. An essential element of the law is the incorporation of social services, psychiatric support, and job help, acknowledging that effective reintegration relies on tackling the fundamental socio-economic problems that contribute to criminal conduct. The law's efficacy depends on sufficient finance, interagency collaboration, and the professional training of probation officers, which continue to pose obstacles in implementation. Moreover, the discretionary authority granted to probation officials and law enforcement authorities needs meticulous oversight to avert possible biases or discrepancies in implementation. The law represents a gradual advancement in humanising Kazakhstan's prison system. However, its efficacy relies on ongoing institutional dedication and public awareness to transform social attitudes toward non-custodial sentencing. Kazakhstan's criminal legislation acknowledges both judicial and non-judicial systems for addressing criminal matters. However, the implementation of alternative measures is yet insufficiently developed. Article 4 of the Law of the Republic of Kazakhstan No. 38-IV "On probation" (2016) delineates the requirements for supervised release, but its execution is deficient in the systematic rehabilitative components present in the probation frameworks of Germany and Spain. Article 2 of the Law of the Republic of Kazakhstan No. 401-IV "On Mediation" (2011) similarly characterises mediation as a voluntary settlement method, yet its use in criminal cases is restricted.

Even though the law of Kazakhstan recognises both judicial and non-judicial mechanisms for resolving criminal incidents, the stereotypical application of criminal law within the framework of punitive functions leads to overcrowding in prisons and pre-trial detention facilities. The introduction of criminal mediation into the restorative justice system has become an innovation in the legal system. However, the law in Kazakhstan practically does not regulate the out-of-court settlement of criminal cases (Anggraeni, 2020). The concept of restorative justice manifests itself in criminal mediation, designed to settle disputes and thus contribute to the correction of criminals. Despite its purpose in mitigating the consequences of crime, criminal mediation is not yet widespread in legal practice. Some countries limit the development of its application. Norway and Belgium are recognised for their extensive restorative justice systems that function at every level of the criminal justice process. Conversely, nations such as New Zealand, Australia, the United States, and England and Wales employ adversarial legal systems while simultaneously incorporating restorative methods to differing extents. However, the introduction of restorative justice through the use of criminal mediation in the criminal law system is practised in many countries. The issue of the introduction of criminal mediation was studied by E.A.W. Adi (2021) and M.M. Gunawan *et al.* (2024). For example, in Indonesia, criminal mediation is applied to minor offenders, minors involved in court proceedings, and those who have committed an offence for the first time. In Poland, criminal mediation is applied to crimes for which the maximum penalty is five years in prison. Switzerland stands out for the fact that mediation is practised due to the lack of empirical data confirming the effectiveness of imprisonment.

Mediation procedures cannot be an alternative to criminal proceedings. The expediency of its introduction continues to be debated and, in some countries, it is even prohibited. There are conflicting opinions on the use of criminal mediation. The divergent views on criminal mediation arise from the contrasting viewpoints of diverse parties and nations. Proponents, including those in Ukraine and France, highlight its advantages, such as alleviating court burdens, promoting reconciliation, and fulfilling victims' demands via restorative justice methods. Ukraine has initiated experimental initiatives for mediation in juvenile cases, with favourable outcomes, underscoring its potential to humanise criminal policy. France uses mediation for minor offences to circumvent courts and foster peaceful resolutions. Conversely, critics contend that mediation cannot supplant formal criminal processes due to apprehensions over the administration of justice and the possibility of imbalanced power relations between victims and criminals (Nascimento *et al.*, 2023). Certain countries, such as Kazakhstan, are currently deliberating its practicality or restricting its use to particular instances. Kazakhstan's legislative structure in this domain is underdeveloped, since mediation is predominantly employed to reconcile parties without comprehensive integration into the criminal judicial system. In instances of small infractions or if reconciliation is attainable and consensual, the restorative advantages of mediation are persuasive. Nonetheless, in instances of grave offences or situations characterised by power disparities (such as domestic abuse), the apprehensions of critics over justice and equity supersede the benefits of mediation.

Comparing criminal mediation in Spain and Germany, Germany introduced criminal mediation into the legal system structurally after the implementation of various pilot projects, despite the fact that there was no consensus in the country's criminal law on the introduction of this procedure.

Spain and Germany have been chosen for comparison due to their contrasting yet influential approaches to criminal mediation within the European legal framework. Germany structurally integrated criminal mediation into its legal system following a series of pilot projects, despite the lack of initial consensus within its criminal law. The German Code of Criminal Procedure (2024) § 153a allows prosecutors to dismiss criminal cases conditionally, including through offender-victim mediation. Meanwhile, Spain formalised criminal mediation within its judicial framework, particularly through Article 84 of the Spanish Criminal Code (2015) and procedural provisions in the Spanish Judiciary Act (1985), allowing for the suspension of sentences if reconciliation is achieved. In contrast, the Law of the Republic of Kazakhstan No. 401-IV "On Mediation" (2011) provides a comprehensive but more general framework for mediation in civil and criminal matters, emphasising its voluntary nature and its applicability in minor and medium-severity offences. It regulates the application of mediation as a substitute for other conflict settlements in Kazakhstan. It covers conflicts resulting from civil, labour, family, and administrative legal interactions as well as some criminal matters with small or moderate crime seriousness. The legislation specifies the guidelines and practices of mediation, the position of mediators, and proves that mediation is voluntary and private. Mediating matters involving persons judged incompetent, connected to corruption and other offenses against public administration, or impacting third-party interests is excluded, nevertheless. Unlike Germany, where criminal mediation is structurally embedded in the legal system, or Spain, where it is aligned with judicial discretion, Kazakhstan's law remains broader and does not integrate criminal mediation as systematically into prosecutorial procedures. This comparison highlights varying levels of legal integration and institutionalisation of mediation across jurisdictions. There is a need to reform criminal and procedural norms in relation to the criminal liability of minors, the use of public labour, mediation, suspension of execution of a custodial sentence, and replacement of imprisonment (Hassan, 2024). Criminal mediation should be accessible and have beneficial effects, both for the victim and the offender, through mutual recognition and by the state.

The concept of restorative justice brings together the parties: the offender, the victim, and society. Whereas in the traditional justice system, more attention was paid to the offender and their punishment, restorative justice is more focused on victims and on ways to compensate for the harm caused by the offence. Victims of crime suffer the most, but they rarely become part of the criminal justice system. The offender's participation in the settlement process increases the understanding of the offence and its impact on the victim. Therefore, restorative justice reduces the rate of repeat offences. Research substantiates the claim that the offender's involvement in the settlement process deepens their comprehension of the offence and its repercussions on the victim, hence leading to diminished rates of recidivism. A thorough examination of restorative justice techniques reveals that offenders participating in restorative justice processes have a reduced likelihood of recidivism. Research from Canada indicates that adolescents participating in restorative justice programs had reduced rates of re-engagement with law enforcement relative to those processed via conventional court systems. A restorative program aimed at medium- to high-risk offenders demonstrated a recidivism rate of only 5.3% among participants, far lower than the 16.1% rate observed among comparable probationers and convicts (The use of restorative…, 2023). Additionally, a meta-analysis indicated that restorative justice programs typically surpass conventional methods in attaining objectives such as victim-offender satisfaction and diminishing recidivism. Participants frequently express a sense of empowerment and acquire understanding regarding the repercussions of their acts, promoting accountability and empathy for victims. This transformative event is essential for addressing the root causes of criminal behaviour, therefore promoting rehabilitation and reintegration into society.

The participation of society strengthens the offender's willingness to change. Change occurs either through shame for behaviour or through support and encouragement from community members. The key difference between restorative justice and traditional forms of justice is the reality of restoring the rights of both the victim and the offender through the opportunity to discuss the situation. This gives the offender the opportunity to rehabilitate themselves before the victim and before society through compensation for damages (Robalo & Rahim, 2023). Restorative justice principles such as responsibility, reintegration, recovery, and respect are relevant for the prevention of delinquency in the school and work environment. Involvement increases the level of acceptance and reintegration of the offender back into the organisation or community.

Criminal Code of the Republic of Kazakhstan (2014) delineates criminal acts, stipulates associated punishments, and seeks to protect individual rights, public order, and state security. It includes overarching concepts of criminal culpability and particular stipulations for different offenses, particularly those perpetrated by adolescents. This fundamental legal text underscores the safeguarding of the rights, freedoms, and legitimate interests of people and citizens, along with the maintenance of public order and safety. Analysing the Code, it was established that mediation is regulated by the Criminal Procedure Code of the Republic of Kazakhstan (2014). It is necessary to evaluate all concepts of the mediation procedure and understand how the advantages of each individual country's system can be used in real life to develop the basic principles of alternative dispute resolution methods fully. In Latvia, the use of mediation in criminal law is regulated by distinct criteria that underscore its function as an alternative conflict resolution mechanism. The Latvian Criminal Law (2000) permits mediation predominantly in minor offences, emphasising restorative justice ideas to promote comprehension between offenders and victims. Nonetheless, the legal environment for mediation is underdeveloped, as it lacks thorough norms in public law beyond Criminal Law (OECD, 2021). Kazakhstan's legislation adopts a more systematic approach to mediation under its Criminal Procedure Code, which clearly permits reconciliation between victims and offenders and delineates methods for executing mediation in criminal cases. Both countries acknowledge mediation as an effective mechanism for conflict settlement, but Kazakhstan's legislative structure provides more explicit principles and wider applicability across diverse offences, including major felonies under particular circumstances. This disparity underscores Kazakhstan's dedication to incorporating mediation into its criminal justice system more thoroughly than Latvia, where mediation is still an evolving field with little legal backing.

Germany is considered one of the developed legal states, including in relation to German Criminal Code (2021). It provides an extensive legal framework for criminal offences and their repercussions, highlighting concepts of legality, proportionality, and the protection of human rights. Essential requirements encompass the requirement that no penalty may be enforced without a corresponding legislation, so protecting against capricious prosecution. The law encompasses several offences, including violent crimes, theft, and economic crimes, with distinct punishments aligned to the gravity of each offence. In Germany, a court imposes a suspended sentence based on the convicted individual's commitment to refrain from future criminal activity, express remorse for past actions, and receive favourable treatment. In these instances, the individual may be sentenced to imprisonment for a duration of up to one year, as outlined in Article 56 of the German Criminal Code. Criminal Procedure Code of the Republic of Kazakhstan (2014) also upholds the notion of legality and delineates various offences and consequences. However, it has faced criticism for its more severe punitive measures and diminished focus on rehabilitative justice. Although both legal systems acknowledge the need for organised legal structures, Germany's code integrates more restorative components and alternative conflict resolution methods, demonstrating a greater dedication to the rehabilitation and reintegration of criminals into society.

A study from Kazakhstan's Prosecutor General's Office indicates a 15.2% reduction in total crime rates, with serious crimes declining by 4.1% and moderate gravity crimes decreasing by 17.9% (Crime Rate in Kazakhstan…, 2023). This tendency illustrates a wider phenomenon noted in several affluent nations, where property offences often constitute a substantial fraction of criminal punishments. The predominant offences in Kazakhstan are theft and robbery, especially among juveniles, who have experienced a rise in delinquency in recent years. This transition underscores the necessity for enhanced strategies to address property crimes while also guaranteeing the efficient management of significant offences, such as violent crimes, within the legal framework. Imprisonment for up to 2 years may be suspended by probation. Such measures should contribute to the rehabilitation of the offender. Instead of imprisonment, they must fulfil the conditions and directions. Germany's alternative criminal punishment system prioritises rehabilitation over vengeance, emphasising penalties, community service, and specialised programs to address underlying issues like addiction and impulsivity (Brodowski, 2020). The day-fine system guarantees that punishments correspond to offenders' income, with fines as the predominant sanction and accounting for the majority of convictions. Community service operates mostly as an alternative to imprisonment for criminals unable to pay fines, in accordance with constitutional restrictions on forced labour. Rehabilitation programs aim to assist offenders in cultivating self-control and addressing behavioural issues to mitigate recidivism. Nonetheless, obstacles persist, including mistakes in income evaluations during sentencing and the restricted application of community service as a principal penalty. Thus, all these measures lead to the social rehabilitation and stabilisation of convicts. The disadvantage of this method is that it often leads to a vicious cycle that ends in prison.

The circumstances in Kazakhstan have been improving owing to a consistent reduction in the jail population. In the last ten years, the jail population has markedly decreased due to criminal justice reforms designed to diminish dependence on incarceration. According to World Prison Brief (2021), in 2011, the prisoner population was roughly 57,038 individuals. By 2018, this figure had diminished to 30,798 and further reduced to 29,403 in 2020. On December 26, 2024, the prison's population was recorded at 32,171, resulting in an imprisonment rate of 163 per 100,000 residents. The technique to accomplish this involves two principal mechanisms: exemption from criminal accountability and reduction of the penalty. These methods aim to maintain the notion of humanism for offenders while preventing undue tolerance towards criminal behaviour. Kazakhstan conforms with worldwide restorative justice trends by extending options including probation, community service, and early release programs, while ensuring public safety and legal responsibility (Biebayeva *et al.*, 2021). Such measures should serve as a preventive function in relation to persons who have repented of the act committed, reconciled with the victim, and decided to live in accordance with the law. According to international standards, the purpose of criminal punishment is conceptually the correction and re-education of the guilty person (Gade, 2020). Such standards have developed through continuous and multilateral international cooperation in the field of human rights. The essence of restorative justice is the humanisation of offenders through mechanisms such as mediation, parole, community service, and fines (Principles of Restorative Justice, 2021). These include addressing the special needs of offenders with special needs and programmes dealing with substance dependence, mental or psychological conditions, anger and aggression, which can lead to repeat criminal behaviour. International standards also stipulate that rehabilitation work should be conducted throughout the entire process of serving a sentence and should serve as a prevention of repeated crimes.

Kazakhstan should to implement Germany's structured mediation framework – Article 153a of the German Code of Criminal Procedure (2024) – to incorporate offender-victim mediation as a legal alternative conflict resolution tool, therefore alleviating court congestion and enhancing rehabilitation outcomes. Moreover, Spain's approach for probation and suspended sentences –Article 84 of the Spanish Criminal Code (2015) – is required to exemplify a framework for enhancing Kazakhstan's probation system, guaranteeing that minor and moderate offenders undergo systematic rehabilitation rather than imprisonment. Inspired by U.S. Code: Title 18 "Crimes and criminal procedure" (1970) specialised diversion programs, Kazakhstan might establish drug courts and community-based treatment initiatives to address substance-related offences, emphasising rehabilitation over punitive actions. Implementing these improvements will connect Kazakhstan's criminal justice system with worldwide best practices, augmenting restorative justice initiatives while diminishing recidivism and facilitating social reintegration.

Discussion

The results of the present study indicate that restorative justice is a viable alternative to conventional punitive approaches, consistent with global practices that emphasise rehabilitation, resocialisation, and the reintegration of criminals. An analysis of the judicial systems in Kazakhstan, Germany, Spain, and the United States uncovers substantial disparities in the application of alternative sentencing methods,

including probation, suspended sentences, and mediation. Germany's systematic mediation process and Spain's judicial flexibility in sentence suspension contrast with Kazakhstan's developing, although still inflexible, criminal system. The findings substantiate the assertion that punitive measures alone are inadequate for crime reduction and that the integration of restorative aspects into criminal law bolsters societal stability. The results correspond with the increasing global trend towards non-custodial punishments and rehabilitative programs, as noted by O. Thi Cao and T. Van Vu (2024), who underscore the need for creating restorative justice models as feasible alternatives to punitive systems. W. Lui (2023) examines the conflict between punishment and restoration in Hong Kong, demonstrating that restorative methods more successfully diminish recidivism rates compared to conventional punitive strategies.

This research reveals that Kazakhstan has successfully decreased its jail population by legal changes, including the Law "On Probation" (2016) and the Law "On Mediation" (2011). Nevertheless, the country's probation system is rather undeveloped relative to Germany and Spain, where restorative justice is systematically included in the legal framework. R. El-Kady (2024) examines victim-offender mediation in Egypt, highlighting that its efficacy relies on robust institutional backing and a legislative framework that favours rehabilitation over retribution, a strategy that Kazakhstan has not yet completely adopted.

The findings of this study augment current studies on restorative justice while also revealing discrepancies in Kazakhstan's criminal justice system compared to worldwide best practices. H. Gaffney *et al.* (2024) performed a comprehensive study of restorative justice treatments for adolescent offenders, determining that organised programs substantially decrease recidivism rates in this population. This corresponds with the obtained findings above regarding Germany, where mediation and suspended sentences for small offences have led to reduced recidivism rates. Nevertheless, Kazakhstan's system continues to emphasise punitive tactics, especially for minor offenders, resulting in elevated rates of imprisonment and recidivism. N. Rochaeti *et al.* (2023) emphasise that Indonesia's indigenous restorative justice systems have effectively addressed crime within communities, a strategy that Kazakhstan might apply to its cultural and legal framework.

The current research emphasises the economic hardship of incarceration in Kazakhstan, a topic that has been relatively overlooked in restorative justice literature, in contrast to other studies. The financial burden of incarceration in Kazakhstan is too elevated relative to the economic advantages of alternative sentencing initiatives. A.M. Nascimento *et al.* (2023) investigated the psychological effects of restorative justice on victims, concluding that victim-centred strategies enhance society's reintegration results and alleviate the economic burden of prolonged incarceration. This illustrates that altering Kazakhstan's criminal policy to focus on rehabilitative measures may produce both social and economic advantages.

The present study significantly expands upon prior findings by analysing gender-specific restorative justice policies. The Bangkok Rules (2010) highlight the distinct obstacles encountered by female offenders and advocate for gender-sensitive alternatives to imprisonment. A.L. Roddy and M. Morash (2020) discovered that the communication style of probation officials significantly influences the rehabilitation of female offenders. Their research demonstrated that supportive and rehabilitative communication enhances job-seeking self-efficacy in women on probation. In Kazakhstan, probation programs are little established, and gender-sensitive rehabilitative measures are predominantly lacking in criminal policy. These findings show that Kazakhstan may gain from the implementation of structured probation and reintegration programs like those utilised in the United States and the European Union.

Moreover, the findings of this study align with studies about the function of restorative justice in education and crime prevention. E. Lodi *et al.* (2022) performed a thorough assessment of restorative methods in educational institutions, demonstrating that early intervention measures markedly diminish delinquency and avert the intensification of criminal behaviour. These results demonstrate that Kazakhstan ought to include prevention-orientated restorative justice programs in its long-term criminal policy framework. This research enhances the existing literature on restorative justice by offering a comparative legal analysis of Kazakhstan's system in regard to worldwide best practices. This study supports prior research highlighting the efficacy of non-custodial sentencing while also revealing deficiencies in Kazakhstan's legislative framework, specifically regarding gender-specific probation programs, economic cost assessments, and preventative restorative justice initiatives. Future changes ought to utilise evidence-based models from countries like Germany and Spain while tailoring these practices to Kazakhstan's socio-legal setting.

The findings of the present study corroborate those of A. Zhang *et al.* (2022) in highlighting the inadequacies of punitive approaches in tackling crime, especially drug-related offences. Both findings emphasise how incarceration perpetuates a vicious cycle of recidivism rather than diminishing criminal behaviour. A. Zhang *et al.* (2022) illustrate that recurrent police interactions with drug-related offences heighten the probability of subsequent arrests, imprisonment, and overdoses, highlighting the ineffectiveness of punitive measures in disrupting the cycle of drug-related crimes. Likewise, the current study reveals that Kazakhstan's dependence on imprisonment for drug offenders intensifies recidivism rates and solidifies criminal identities rather than facilitating recovery. A. Zhang *et al.* (2022) endorse public health measures and harm reduction techniques, but the current research endorses the enhancement of probation, restorative justice, and rehabilitation programs as superior alternatives to jail. Both studies advocate for a transition from punitive justice to evidence-based rehabilitation to diminish recidivism and enhance long-term social reintegration results.

J. Lockard (2024) raises the question of the need to examine the subject of the abolition of the death penalty in the United States. The paper discusses the need to humanise condemned prisoners to death. The human right to life does not require sentimental reasoning from society outside prisons but protection from the judicial system and stereotypes that exist in the country's criminal legislation. J. Lockard's work, centred on the death penalty, corresponds with the current research in promoting a more compassionate criminal justice strategy and challenging the inflexibility of punitive tactics. Both studies underscore the deficiencies of the existing justice system, with J. Lockard (2024) examining the ethical and legal issues associated with death punishment, while the present research examines the overreliance on incarceration and its ineffectiveness in diminishing

recidivism. Moreover, both studies emphasise the necessity of transforming criminal policy to prioritise rehabilitation and equity, contesting legal preconceptions that disproportionately impact marginalised groups. This research, in contrast to J. Lockard's (2024) emphasis on public mobilisation against the death penalty, investigates alternative sentencing measures including probation, mediation, and community service, contending that a rehabilitative approach is more efficacious in preventing recidivism and facilitating social reintegration

Restorative justice and its practice are often seen as an adjunct to the formal criminal justice system, which provides an alternative response to crimes and rarely manifests itself in the formal administration of justice (Moroz & Horislavska, 2024). T.L.A.S. Robalo and R.B.B.A. Rahim (2023) reviewed the use of restorative justice in the commission of cybercrimes. There are some difficulties with this type of offence since to apply it in the case of cybercrime, all interested parties must first be identified. Often, it is not easy to find a criminal. Thus, such offenders are rarely brought to justice. Cybercrime poses an additional challenge due to its cross-border nature. It is important to identify the perpetrator to bring them to justice, which is not an easy task. In addition, the offender may be a citizen of a state in which there is no criminal law on this issue or which opposes their extradition for criminal purposes. Cybercrimes occupy a special place in legal proceedings due to their unexplored nature (Metelskyi & Kravchuk, 2023). Both studies assert that criminal accountability and victim involvement are essential in reducing recidivism. Furthermore, both research findings emphasise that conventional punitive tactics do not address the underlying reasons for criminal behaviour, underscoring the need for new strategies. While T.L.A.S. Robalo and R.B.B.A. Rahim (2023) ascertain that victim-offender panels markedly enhance dispute resolution and diminish further cyber offences, the current study illustrates that mediation, probation, and community service decrease reoffending rates inside traditional criminal justice frameworks. Despite variations in the particular circumstances of crime, both investigations ascertain that restorative justice surpasses punitive approaches in fostering long-term rehabilitation and social reintegration.

Based on the situation that has developed in the world community, fundamental human rights are of fundamental importance in law-making. This trend has not left aside criminal proceedings. Based on observations in relation to persons serving a custodial sentence and the situation that develops after their release, negative consequences of long-term stay in prison have been noticed. One of them is the impossibility of returning to society, which leads to relapses of crimes. For this reason, deprivation of liberty does not perform the functions assigned by criminal law, namely the correction and rehabilitation of those who have committed a crime. The search and implementation of new ways to influence such persons is the task of modern law-making.

Conclusions

This research evaluated the efficacy of restorative justice and alternative punitive measures in Kazakhstan, contrasting them with the legislative frameworks of Germany, Spain, and the United States. A significant constraint of the research was the absence of publicly accessible statistical data on long-term recidivism patterns in Kazakhstan, which constrained the thoroughness of quantitative analysis. However, the research evaluated the influence of non-custodial sentencing models, such as probation, mediation, and community service, on offender rehabilitation and crime reduction.

The research analysed the interplay between recidivism, inmate demographics, and crime statistics to evaluate the efficacy of correctional reforms in Kazakhstan. Countries with organised restorative justice systems, such as Germany and Spain, have lower recidivism rates and more efficient reintegration processes than Kazakhstan's punitive model. The study examined the use of probation, suspended sentences, and mediation, concluding that these strategies alleviate the financial costs of jail and enhance rehabilitation results. The research indicated that Kazakhstan's criminal justice system continues to favour punitive punishment rather than rehabilitative methods, resulting in elevated rates of recidivism. Moreover, an examination of gender-sensitive penal policies indicated that Kazakhstan lacks adequate reintegration programs for female offenders, a deficiency that contravenes international norms like the Bangkok Rules.

This research elucidates how restorative justice might enhance rehabilitation and crime prevention in Kazakhstan. The paper examines several sentencing models across legal systems, revealing the institutional and legislative deficiencies that impede the comprehensive incorporation of non-custodial punishments within Kazakhstan's legal framework. The findings support the assertion that punitive measures alone are inadequate for crime reduction, whereas restorative justice offers a more effective, cost-efficient, and socially advantageous alternative. The research highlights that judicial discretion in sentencing is essential for the application of restorative justice, shown by Spain's adaptable approach to alternative sanctions. These findings enhance the overarching dialogue on criminal justice reform, policy formulation, and the significance of rehabilitation in mitigating recidivism.

Future studies should concentrate on longitudinal studies of recidivism rates among criminals exposed to alternative sentencing in Kazakhstan, including a comprehensive review of probation efficacy. Moreover, subsequent enquiries should examine the more efficient integration of restorative justice within Kazakhstan's legal and penitentiary frameworks, especially for adolescent and female offenders. In connection with the introduction of humanisation methods in criminal proceedings, to find a unified approach to punishing persons who have committed criminal offences, it is necessary to continue examining and identifying new ways, considering the individual capabilities and needs of each individual.

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Conflict of interest

None.

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Актуальні проблеми гуманізації виконання покарання у вигляді позбавлення волі за законодавством Казахстану: міжнародний порівняльний аналіз

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Анотація. Актуальність дослідження зумовлена постійними ініціативами держави щодо реформування казахстанської системи кримінального правосуддя, зниження рівня рецидивної злочинності та узгодження кримінальної політики з міжнародними стандартами відновного правосуддя, особливо в частині зменшення залежності від позбавлення волі та підвищення ефективності стратегій пробації та альтернативних покарань. Метою дослідження було визначення нових форм впливу на злочинців у контексті відновного правосуддя. У дослідженні використано порівняльно-правовий аналіз, доктринальне правове дослідження та функціонально-правовий аналіз для оцінки ефективності відновного правосуддя та альтернативних покарань у Казахстані, Німеччині, Іспанії та Сполучених Штатах Америки. Проведено аналіз основоположних міжнародних документів, які регулюють правовий статус осіб, засуджених за вчинення кримінального правопорушення із застосуванням пом'якшувальних покарань, та їх вплив на формування національного кримінального законодавства. Дослідження показало, що процедури відновного правосуддя, включаючи пробацію, умовне засудження та медіацію, призводять до зниження рівня рецидивної злочинності та підвищення ефективності реабілітації порівняно з суто каральними методами в Казахстані. Порівняльний аналіз показав, що Німеччина та Іспанія систематично включають відновне правосуддя до своєї правової бази, що сприяє більш ефективній реінтеграції правопорушників, тоді як Казахстан продовжує надавати перевагу позбавленню волі, що призводить до підвищення рівня рецидивної злочинності та фінансового тягаря для пенітенціарної системи. Результати дослідження довели, що альтернативні покарання зменшують переповненість в'язниць і знижують державні витрати, підтверджуючи твердження про те, що законодавча система Казахстану потребує подальших змін для приведення її у відповідність до найкращих світових практик. Практичне значення цього дослідження полягає у визначенні нових інструментів впливу на осіб, які несуть кримінальну відповідальність, з точки зору відновного права, гуманізації кримінального права, реабілітаційної практики та міжнародного досвіду впливу на правопорушників

Ключові слова: відновне правосуддя; кримінальне правопорушення; медіація; механізми позасудового врегулювання; медіація

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Legal regulation of profiling and targeted advertising in Kazakhstan through the lens of European experience

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Abstract. The study was dedicated to analysing the current legal framework regulating profiling and targeted advertising in Kazakhstan, considering the European experience. The study involved a review of regulations of Kazakhstan governing the use of personal data and a comparative analysis with the provisions of General Data Protection Regulation. The analysis demonstrated that while Kazakhstan has established basic standards for the protection of personal data, the level of transparency and control over the data processing process remains noticeably lower compared to European norms. The main issues included the lack of explicit user consent for the use of their data for targeted advertising, limited opportunities for managing personal information, and insufficient financial resources for employing advanced technologies and certain legal restrictions caused by stringent state policies. An examination of Kazakhstani online platforms, including examples such as Kaspi, Tengrinews, and Krisha, demonstrated that data processing procedures on these platforms do not comply with the standards of the General Data Protection Regulation. This creates legal risks for businesses, particularly in relation to potential entry into the European market. The findings of the study highlighted the necessity of improving national legislation in the field of personal data protection. It was recommended to introduce mechanisms ensuring explicit user consent for data processing, enhance the transparency of privacy policies, and expand user rights, including the ability to

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delete stored data and transfer it. Aligning the legislation of Kazakhstan with European standards will not only strengthen the protection of citizens' rights but also increase the competitiveness of Kazakhstani companies in the international arena

Keywords: personal data processing; international standards; privacy policy; digital market; user rights protection

Introduction

In the era of the digital economy, data has become a new valuable asset, and its commercial use is gaining increasing importance. Profiling and targeted advertising, as key tools of digital marketing, enable companies to tailor advertising messages based on the analysis of user behaviour and preferences. These methods play a crucial role in shaping market strategies and enhancing business efficiency but also raise serious concerns about personal data protection and consumer rights compliance.

In the context of globalisation and the rapid development of information technologies, many countries face the need to establish laws to regulate data processing in profiling and targeted advertising (Maulenov *et al.*, 2024). The General Data Protection Regulation (GDPR) (2016), introduced by the European Union, has set high standards for personal data protection, which have become a model for many countries. As global digital integration progresses, the possibility for Kazakhstani internet platforms to enter the European market is growing in importance (Nurbatyrova *et al.*, 2024). The expansion of Kazakhstani platforms into European markets is essential for fostering international business relationships and tapping into a larger consumer base. As Kazakhstan works to bring its standards into line with those of Europe, it is clear that significant reform is required to the nation's data protection laws, especially with regard to profiling and targeted advertising (Zhetpissov *et al.*, 2024). Companies in Kazakhstan may be exposed to legal risks due to the discrepancy between the EU's demanding standards and Kazakhstan's present rules. Failure to comply with these standards may result in penalties and restrictions (Yerbolatov *et al.*, 2022). In addition to being a question of legal compliance, harmonising Kazakhstan's data protection regulations with the GDPR is strategically necessary to increase Kazakhstani businesses' competitiveness globally. The country's digital economy will eventually gain from this alignment since it will give Kazakhstani companies access to the European market, boost customer confidence, and enhance data processing transparency generally.

The dissemination and implementation of European standards for regulating data protection issues in legal contexts has received considerable attention in academic circles. For instance, G. Gentile and O. Lynskey (2022) explored this issue in detail, analysing challenges associated with the transnational application of the GDPR and criticising the current system of GDPR enforcement at the international level, which complicates its effective implementation across different countries. International legal aspects of these issues were also examined by R.D. Veit (2022), who conducted a comparative analysis of approaches in various European countries such as Germany. Similarly, B.C. Prokk and I. Schneider (2021) concluded that the GDPR plays an important geopolitical role, influencing international data regulation norms and reinforcing the EU's leading position in the field of personal information protection.

There are also studies specifically focused on the application of these standards in Central Asia. For example, K. Chan *et al.* (2022) examined the legal regimes governing data regulation in Kazakhstan and Uzbekistan, in comparison with China, other countries, and major technology companies (Big Tech). They highlighted how, in the context of increasing digital control and authoritarian regimes, the legislation of Central Asian countries affects user freedoms and rights to privacy. The study also addresses the challenges of complying with global regulations such as the GDPR in the region, using examples of the operations of major technology companies (such as Google, Facebook, and others) within these countries. A. Younas *et al.* (2020) analysed the existing regulatory frameworks in Central Asian countries such as Kazakhstan, Uzbekistan, Kyrgyzstan, and Tajikistan, evaluating how these nations adapt to global trends in the processing of big data and cloud technologies. The authors examined how the countries in the region implement laws regulating the storage and processing of data in the cloud and assess the extent to which these laws align with international standards such as the GDPR. M. Toqmadi and N. Zakharchenko (2021) explored how users in Central Asia engage with issues of online privacy and consent to terms of data usage, often without any clear understanding of the essence of privacy policies or their rights. M. Lukings and A.H. Lashkari (2022), in their study on data sovereignty and cybersecurity, provided examples of international practices and noted that since the summer of 2020, Kazakhstan has begun adapting its laws to meet GDPR requirements. In their view, this demonstrates the country's ambition to modernise data protection legislation, enhance data security levels, build citizens' trust in digital services, and align the legal system with international standards.

The academic community has also produced research specifically focused on analysing the legal framework of Kazakhstan. Among the researchers who addressed this issue are Y.Y. Yerbolatov *et al.* (2022), who conducted a comparative analysis of personal data protection regulations in Kazakhstan and the European Union, with a particular focus on the GDPR. Similarly, Zh.T. Iskakova and T.S. Kadyrzhanova (2022) addressed the challenges and issues associated with the legislation of Kazakhstan on personal data protection, examining its compliance with international standards, including the GDPR. All the aforementioned authors agree that the personal data protection legislation of Kazakhstan falls short of many international standards, resulting in gaps in safeguarding citizens' rights. They also highlighted a number of key issues, the most noteworthy of which include the absence of clear regulations governing the transfer of data abroad (creating problems in the context of global digitalisation), limited awareness of privacy threats, a lack of understanding among users regarding the risks associated with the use of their personal data (including for targeting and profiling), low levels of digital literacy among internet users, inadequacies in the legislation of Kazakhstan, and challenges in implementing GDPR-equivalent standards. These issues are further exacerbated by limited transparency in data processing and insufficient enforcement mechanisms.

The purpose of this study was to identifying shortcomings in the legal regulation of profiling and targeted

advertising in Kazakhstan from the perspective of the European experience. The objectives of the study focused on identifying existing legal gaps and issues in national regulation and developing recommendations for improving legislation in accordance with international standards.

Materials and methods

The first stage of the study involved an analysis of the legislation of Kazakhstan regulating profiling and targeted advertising. Key regulations are examined, including the Law of the Republic of Kazakhstan No. 94-5 "On Personal Data and their Protection" (2013), as well as other legislative documents such as the Law of the Republic of Kazakhstan No. 508-2 "On Advertising" (2003) and the Law of the Republic of Kazakhstan No. 18-8 "On Online Platforms and Online Advertising" (2023). This analysis aimed to identify the key provisions ensuring the protection of users' rights and limiting the misuse of their data in the context of profiling and targeted advertising. Subsequently, the legislation of Kazakhstan is compared with the provisions of the European General Data Protection Regulation (GDPR) (2016), which serves as an international standard in personal data protection.

The methodology included an analysis of the key provisions of the legislation of Kazakhstan and the European Union. The following elements of legal regulation are selected for comparison: the definition and regulation of profiling and targeted advertising, the legal framework, data subjects' rights (including the right to access and delete information), consent for data processing and the requirements for such consent, accountability and sanctions, data breach notifications, cross-border data transfers, and the presence of a supervisory authority. An important component of the methodology was the analysis of judicial practice in Kazakhstan and the European Union. This section of the study examines Kazakhstani and European cases related to profiling and targeted advertising: a woman questioned the legality of fingerprint access control at work (Open Dialog, 2022b), a person asked if written consent is needed for workplace video surveillance (Open Dialog, 2022a), a company was questioned about recording customer service interactions and need for consent (Open Dialog, 2021a), a person raised concerns about personal data in vaccination QR codes (Open Dialog, 2021b), Meta (Facebook) v. German Antitrust Authorities (EU's Top Court…, 2023), CNIL v. Google (The CNIL's Restricted…, 2019), ICO v. British Airways (Prinsley *et al.*, 2020), the Case Against IAB Europe (The BE DPA…, 2022), the Oracle and Salesforce lawsuits (Privacy Collective, 2020), and the Luxembourg Data Protection Authority v. Amazon (Luxembourg DPA Fines…, 2021).

To analyse the practical implementation of the legal regulation of profiling and targeted advertising in Kazakhstan, monitoring was conducted between January and March 2024 on three popular online platforms: News Portal Kaspi – the largest platform in Kazakhstan in the fields of e-commerce and online banking, which actively utilises users' personal data to generate personalised offers and advertisements; Tengrinews – a popular news portal widely used for obtaining information and advertisements, including those with elements of targeting, making it relevant for exploring profiling in the news sector; and Platform for Selling and Buying Real Estate Krisha (2024), which actively employs user profiling to provide advertising offers based on their search queries. The monitoring was based on criteria such as the transparency of privacy policies, the clarity of user consent for data processing, the extent of user control over personal data, and the implementation of targeted advertising practices. The observation focused on the use of cookies, the methods of obtaining consent for data processing, and how the platforms manage user data for advertising purposes. The choice of these platforms was justified by their popularity and wide application in Kazakhstan. Each platform represents a unique example of the use of personal data in different sectors – e-commerce, news resources, and real estate – which provides an opportunity to comprehensively review the practice of profiling and targeted advertising.

Results

Legal aspects of regulating profiling and targeted advertising. Targeted advertising and profiling have become integral elements of modern marketing strategies. Targeted advertising is the process through which advertising materials are directed at carefully selected audience segments. Such segments are formed based on user data, including demographic information, search history, behavioural patterns, interests, and other digital traces they leave online. Profiling, in this context, is a key tool used for analysing and interpreting these data. It enables the creation of detailed digital profiles of users, allowing advertisers to more accurately predict their preferences and needs. This not only enhances the relevance of advertising messages but also increases the effectiveness of marketing campaigns.

However, the widespread adoption of profiling and targeted advertising raises several ethical and legal concerns. Chief among these is the issue of data privacy. Users may be unaware of the extent and type of data being collected about them, as well as how this data will be used in the future (Mentukh & Shevchuk, 2023). This leads to concerns about potential violations of privacy rights and the misuse of personal information. Legislative acts, such as Regulation of the of the European Parliament and of the Council No. 2016/679 "On the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive No. 95/46/EC (General Data Protection Regulation)" (2016), set forth clear requirements for the processing, storage, and collection of personal information. Advertising companies are obliged to comply with these rules to safeguard user rights and ensure transparency in their actions.

Regulation of the European Parliament and of the Council No. 2016/679 (2016) established rules for the protection of personal data and strengthened control over its processing and transfer, both within the EU and beyond, where such data concerns Union citizens. The main provisions of the GDPR regulate principles of data interaction, define the rights of data subjects, outline measures of responsibility and penalties, and establish rules for cross-border data transfers. The GDPR mandates the following principles: legality, transparency, and fairness in data processing (Article 5(1)(a)). Data must be collected with a clearly defined purpose, and further processing that does not align with the initially stated objectives is prohibited (the principle of purpose limitation) (Article 5(1)(b)). Data processing must be minimised, meaning only the information genuinely required to achieve a specific, defined task may be requested (the principle of data minimisation) (Article 5(1)(c)). Data must be stored only for

as long as is necessary to achieve the purposes of its processing (the principle of storage limitation) (Article 5(1)(e)).

Furthermore, the GDPR sets requirements for protecting data against unlawful processing and unauthorised access, as well as accidental loss, damage, or destruction (the principle of integrity and confidentiality) (Article 5(1)(f)). An important aspect is the requirement for accuracy: data must be updated as necessary and must reflect reality (the principle of accuracy) (Article 5(1)(d)). The rights of data subjects include access to their information, enabling them to understand what data is being collected and how it is being used; the ability to correct inaccuracies in the information; the possibility to delete data (the so-called "right to be forgotten") if it is no longer required (Article 17); the ability to restrict processing (Article 18); and the right to obtain data in a convenient format for transfer to another controller (Article 20). Users may also object to the transfer of their data in certain cases, such as for direct marketing purposes (Article 21).

The GDPR provides for strict measures of responsibility for violations of its provisions, with fines of up to 4% of the company's annual turnover or EUR 20 million, whichever is higher (Article 83). The regulation also requires companies to appoint Data Protection Officers (DPOs) when handling personal information is a core activity and involves monitoring a wide range of data subjects (Article 37). Moreover, the GDPR establishes strict rules for the transfer of information outside the EU. Transfers are permitted only to countries with an adequate level of data protection or based on legal grounds such as standard contractual clauses (Article 46). The GDPR has significantly strengthened citizens' rights to control their personal data and imposed strict obligations on companies to ensure this protection.

As of mid-2024, the GDPR is implemented across all 27 EU Member States, including countries such as Germany, France, Italy, Spain, and others, as well as in EEA countries such as Norway, Iceland, and Liechtenstein. Following the United Kingdom's exit from the EU (Brexit), the UK adopted its own version of the GDPR – UK GDPR – which is nearly identical to the European regulation but applies exclusively within the United Kingdom (Luisi, 2022). The GDPR also applies to companies and organisations located outside the EU or EEA that offer goods and services to EU citizens or monitor their online activities (Jones & Kaminski, 2020). This means that any company handling the data of EU citizens must comply with the GDPR, regardless of its geographic location.

A different situation is observed in countries outside the EU's legal jurisdiction that aspire to adopt its advanced and progressive practices. For instance, Kazakhstan has not fully implemented the GDPR but has been gradually adapting its standards since 2019. From August 2019, Kazakhstan began preparing a draft law introducing amendments to the country's data protection regime based on the GDPR and the establishment of a specialised agency dedicated to personal data protection (Khamidullina, 2019). The draft, titled Law of the Republic of Kazakhstan No. 347-6 ZRC "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan Regarding Regulation of Digital Technologies" (2020), as of August 2019, proposed amendments and additions to a significant number of laws and codes of Kazakhstan, including the Law on Data Protection. The draft referenced the GDPR as an internationally studied practice and included provisions for creating an authorised state body to handle personal data issues.

The following changes to personal data regulations were adopted. Kazakhstani companies were required to notify the Law of the Republic of Kazakhstan No. 44-VIII "On Amending Certain Legislative Acts of the Republic of Kazakhstan on Information Security, Informatisation and Digital Assets" (2023) (a requirement similar to that in the GDPR). This meant that Kazakhstani companies are required to notify relevant authorities about certain activities related to information security, data processing, and digital assets. This requirement is similar to the GDPR, which mandates companies to inform data protection authorities and affected individuals in the event of data breaches or violations. Next, the "localisation rule" was clarified by specifying that personal data of Kazakhstani citizens must be stored and processed within the territory of Kazakhstan. And finally, the duties of the State Technical Service of the National Security Committee were expanded to include inspections of personal data security (companies were obliged to grant the Service access for such inspections). Furthermore, from July 2020, companies were mandated to establish a role analogous to the Data Protection Officer (DPO), introduced in the EU in 2018, requiring the appointment of an individual responsible for managing personal data (Kazakhstan Strengthens Personal…, 2021). These innovations were approved under the Law of the Republic of Kazakhstan No. 399-4 "On Introducing Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on the Issues of Restoration of Economic Growth" (2021). Despite the relatively small fines in both cases (100 monthly calculation indices, equivalent to approximately USD 630), these decisions demonstrated that the Ministry was prepared to take tangible measures to protect personal information.

As of mid-2024, the regulation of targeted advertising in Kazakhstan is implemented through several key laws and regulations. The Law of the Republic of Kazakhstan No. 508-2 (2003) regulates all types of advertising, including online advertising, within Kazakhstan. It sets general rules for advertising, requirements for its accuracy, and prohibits certain types of advertising (e.g., unfair or misleading advertising). The law also defines liability for violating advertising legislation. The Law of the Republic of Kazakhstan No. 94-5 (2013) governs the processing of personal information, including data used for targeted advertising. It stipulates that personal data can only be processed with the owner's consent and establishes rules for its protection and handling. Within the framework of this law, requirements are set for database operators who collect and process personal data, including requirements for their protection and the maintenance of confidentiality. The Law of the Republic of Kazakhstan No. 18-8 (2023) regulates the activities of online platforms where online advertising, including targeted advertising, is placed. The law defines the obligations of platform owners to protect user data, requires transparency in the functioning of platforms, and limits the dissemination of illegal content. A key aspect of this regulation is the governance of recommendation systems and the use of profiling for targeted advertising. These laws form the legal foundation for the regulation of targeted advertising in Kazakhstan, ensuring the protection of user rights and establishing liability for advertisers and online platform operators. However, there are still many areas where the legislation of Kazakhstan lags behind European standards.

Comparison of key provisions of Kazakhstan and the EU legislation regulating profiling and targeted advertising. The legislation of Kazakhstan concerning profiling primarily relies on the provisions of the Law of the Republic of Kazakhstan No. 94-5 (2013) and the Law of the Republic of Kazakhstan No. 18-8 (2023). In Kazakhstan, profiling involves the use of algorithms that evaluate the interests and preferences of users to generate individualised advertising. Data operators must obtain users' consent to process their personal information, including profiling, which is used for targeted advertising. In Europe, profiling is regulated by Article 22 of the GDPR, which defines it as an automated process involving personal data to analyse various aspects of an individual's personality, such as financial status, health, preferences, and other parameters. Under GDPR requirements, data processing for profiling is only permitted if there is "explicit consent" from the data subject (Article 6(1)(a)). Unlike the legislation of Kazakhstan, where profiling is predominantly used for targeted advertising, the GDPR introduces stricter restrictions. Specifically, it prohibits automated decisions that may affect citizens' rights and freedoms if made without human involvement (Article 22).

The legislation of Kazakhstan also regulates targeted advertising through the Law of the Republic of Kazakhstan No. 18-8 (2023). Targeted advertising is defined as advertising directed at specific target groups based on profiling. The law requires online platforms to provide users with the option to opt-out of targeted advertising and ensure full transparency regarding the profiling methods used. In the EU, targeted advertising is regulated by both the GDPR and the Directive of the European Parliament and of the Council No. 2002/58/EC (2002). As in Kazakhstan, the GDPR mandates consent for the processing of data used for targeting. However, the Directive introduces additional requirements related to the use of cookies and other tracking tools that monitor users' online behaviour. The Directive requires websites to obtain active and informed consent from users for the use of cookies if they collect personal data, which is often the basis for profiling and targeted advertising. Notably, in the EU, ePrivacy is often applied in conjunction with the GDPR (Yakymenko, 2023). This way it provides stricter oversight of targeted advertising processes because it imposes additional requirements on the use of cookies and tracking technologies for targeted advertising.

According to the Law of the Republic of Kazakhstan No. 94-5 "On Personal Data and Their Protection" (2013), simple consent from users is required to process information for profiling and targeted advertising. Users must be fully informed about the purpose of collecting such information, how it is used, and be aware that they have the right to withdraw consent for processing this data at any time. However, the law in Kazakhstan does not specify that consent must be explicit, voluntary, and unambiguous, as is required under European regulations. The GDPR requires explicit consent but also introduces additional requirements for informing users. In particular, consent must be given voluntarily, consciously, clearly, and unambiguously. This means that the user must take a clear, affirmative action to indicate consent, and the consent must be separate from other agreements or terms of service. Users must be thoroughly informed about the purpose of collecting such information, how it is used, and be aware of all their rights, including the right to withdraw consent for processing such data at any time (Shtovba, 2024). The GDPR insists that the consent process be separate from other agreements and that the procedure for withdrawing consent should be simple and accessible. This adds a layer of clarity and user control that goes beyond the simpler consent requirements in Kazakhstan's legislation.

The Article 147 of the Penal Code of the Republic of Kazakhstan (2014) also provides for administrative fines for violations related to profiling and targeted advertising, but the amounts of these penalties and the procedures for their application are less strict compared to European standards (GDPR, Article 83). Companies can be fined for improper use of personal data or for insufficient measures to protect it. The GDPR clearly specifies fines for non-compliance, including violations related to profiling and targeted advertising. The fines are determined based on the maximum amount, which may be either 4% of annual turnover or EUR 20 million. This makes the GDPR one of the strictest legal frameworks for data protection.

Meanwhile, some authors such as Yerbolatov (2022), Iskakova and Kadyrzhanova (2022) note that there is a difference in the rights of data subjects. While in Europe, data subjects have broad rights, including access to their data (GDPR, Article 15), the right to correct inaccuracies (GDPR, Article 16) and portability (GDPR, Article 20), and the right to erasure (GDPR, Article 17), in Kazakhstan, the rights of subjects are more limited. Individuals have some ability to control their personal information, such as the right to erasure (Article 19) (Law of the Republic…, 2013), but these rights are not as extensive or as easily enforceable as under the GDPR (Yerbolatov, 2022). In addition, although Kazakhstan has a supervisory authority, its powers and independence may be more limited compared to similar authorities in GDPR-compliant countries. There are also requirements for data breach notifications, but the timelines and conditions are different. The GDPR requires companies to notify authorities within 72 hours of a data breach (Article 33), while in Kazakhstan it should be done during one business day (Law of the Republic…, 2013) (Iskakova and Kadyrzhanova, 2022). Thus, the legislation of Kazakhstan in the area of profiling and targeted advertising is largely similar to European legislation, particularly in terms of consent and transparency requirements – Law of the Republic of Kazakhstan No. 94-5 (2013) and Article 6 of the GDPR. However, European regulation, represented by the GDPR (2016) and the ePrivacy Directive (Directive of the European…, 2002), is more detailed and imposes stricter restrictions and liabilities on companies engaged in profiling and targeted advertising. The norms of Kazakhstan aim to achieve similar goals but with consideration of national law enforcement practices and legal culture.

Analysis of judicial practice. There are numerous precedents involving highly contentious issues faced by law enforcement practices in relation to personal information protection. For instance, a case can be cited where a woman approached the Minister of Labour and Social Protection questioning the legality of an employer introducing an access control system based on fingerprint identification (Open Dialog, 2022b). She argued that fingerprints are classified as personal data. The Ministry responded by highlighting the mandatory compliance with the provisions of the Law on Personal Data, including the requirement to obtain employee consent (Open Dialog, 2022b). The response also needed to clarify that fingerprints are classified as biometric personal information and that the collection of such data may only

be conducted by authorised bodies (Law of the Republic of Kazakhstan No. 94-5, 2013). However, even in cases where the employer's activity aligns with legal requirements, the collection of fingerprint data for employee identification may violate the principle that only personal data necessary and sufficient for achieving specific purposes should be collected and processed.

Questions about the legality of video surveillance and recording in the context of labour and commercial relations between citizens and businesses have also been raised in various appeals to ministries (Akhmetova, 2023). For example, a person inquired whether employers are required to obtain written consent from employees for video surveillance at the workplace, citing potential violations under Article 147 of the Criminal Code of Kazakhstan (violating privacy and data protection laws) (Open Dialog, 2022a). In another case, a commercial organization was questioned about its practice of video and audio recording customer service interactions, specifically whether this constitutes personal data processing and if consent is required (Open Dialog, 2021a). In a different case, a person raised concerns about the disclosure of their personal data (including full name and ID number) when presenting vaccination QR codes, questioning whether this constitutes a violation of personal data protection (Open Dialog, 2021b). In responses from state authorities, it is generally noted that the collection and processing of personal information must comply with legislative requirements, including mandatory notification and obtaining consent for video surveillance (Law of the Republic of Kazakhstan No. 94-5, 2013). These responses suggest the permissibility of collecting and processing data through video surveillance, provided that facial imagery is necessary and sufficient to fulfil the objectives of the employer or business entity. Nevertheless, state authorities must emphasise more clearly that the data collected should be limited to information critically essential for processing purposes. As mentioned earlier, ensuring high-quality awareness for both citizens and businesses promotes the development of legal culture and contributes to the effective implementation of laws in the country. Numerous such precedents exist, particularly at local levels. Alignment with the GDPR and EU practices would help avoid such cases by establishing clear, standardized procedures for obtaining explicit consent, ensuring transparency in data collection, and enhancing accountability in personal data processing. To avoid misunderstandings over privacy rights, the GDPR requires comprehensive consent standards, such as unambiguous notifications and the ability to revoke consent. In order to guarantee that companies handle personal data with the highest care and responsibility, it also enforces stringent safeguards for biometric data, video surveillance, and the use of personal identifiers like QR codes (Zaki *et al.*, 2021). This alignment would strengthen the foundation for safeguarding people's privacy, lower legal risks, and increase consumer trust.

By comparison, in the case of Meta (Facebook) versus German Antitrust Authorities (EU's Top Court…, 2023), where the German antitrust authority accused Meta of abusing its dominant position by linking data usage with access to platforms (Facebook, Instagram, and WhatsApp), the Court of Justice of the European Union (CJEU) ruled that Meta violated the GDPR by using user data for targeted advertising without explicit consent. This limited the company's ability to utilise data for advertising in Germany and led to significant financial losses. The decision paved the way for similar cases across the EU (EU's Top Court…). In 2019, the French CNIL Commission fined Google 50 million euros for violating GDPR. The main issue was the lack of transparency and the absence of informed consent from users regarding the collection of data for advertising. Google did not provide sufficient information on how it used data for targeting and did not obtain explicit permission for this (The CNIL's Restricted). In 2020, the UK's Information Commissioner's Office (ICO) imposed a fine of 20 million pounds on British Airways for a data breach affecting 400,000 users (Prinsley *et al.*, 2020).

Special mention should also be made of judicial decisions that can be considered exemplary in terms of fairness and a civilised approach, which should be adopted by the judiciary of Kazakhstan. In the "Case against IAB Europe" (The BE DPA…, 2022), the Belgian data protection authority ruled against IAB Europe, stating that their system for obtaining consent for targeted advertising (TCF) violated GDPR. The court required the company to revise its procedures and imposed a fine of EUR 250,000. However, the important point was that the court gave the company the opportunity to correct the deficiencies in its system, maintaining a balance between data protection and advertising interests (The BE DPA..., 2022). In the Netherlands, Oracle and Salesforce companies (Privacy Collective, 2020) were subject to legal proceedings for using user data for targeted advertising without proper consent. Unlike other cases, the court recommended that the company reconsider its methods and give users more control over their data. This decision demonstrated a civilised approach, where companies were given the opportunity to adapt to new standards without imposing significant fines. Also noteworthy is the precedent with Amazon (2021). The Luxembourg data protection authority fined Amazon a record 746 EUR million for violating GDPR (Luxembourg DPA Fines…, 2021). Nevertheless, when making the decision, the court emphasised that Amazon could improve its data collection processes and provide greater transparency to users regarding the use of their data for targeting. This decision became an example of courts striving to achieve a fair balance between business interests and user rights protection (Top Websites Ranking, 2024). These cases highlight a broader trend in judicial practice, where courts seek to balance regulatory enforcement with the opportunity for companies to rectify compliance issues, promoting both legal accountability and a fair business environment.

Specifics of targeted advertising and profiling on online platforms in Kazakhstan. To analyse the use of targeted advertising and profiling on online platforms in Kazakhstan, with a focus on legal aspects, popular Kazakhstani online platforms (e-commerce sites, social networks, news portals, etc.) were selected. These platforms actively use targeted advertising (notable ad campaigns, banners, pop-up messages) containing information about personal data processing policies and user consent. According to the Top Websites Ranking (2024), as of mid-2024, platforms such as the E-Commerce and Online Banking Platform Kaspi (2024), the popular news portal Tengrinews (2024), and the Platform for Selling and Buying Real Estate Krisha (2024) are highly popular among internet users in Kazakhstan.

On the Kaspi website, there is a privacy policy that contains information on how the company collects, processes, and protects users' personal data (Code of Ethics and

Business…, 2025). This policy outlines the key provisions regarding the storage and processing of data and its use for commercial purposes. The Kaspi privacy policy mentions the use of user information for personalised advertising and marketing. It also emphasises that the company is obliged to comply with the requirements of the legislation of Kazakhstan, particularly the Law of the Republic of Kazakhstan No. 94-5 (2013). Despite this, the policy may not detail how the explicit consent of the user for targeted advertising is collected, which could become a problematic point in terms of meeting strict requirements similar to the GDPR. Kaspi uses cookies, but the privacy policy does not always clearly state whether user consent is requested for their use, as required by European legislation such as the GDPR (Article 6(1)(a)). In Europe, users must be able to give explicit consent for the use of cookies for targeted advertising purposes, and they must also have the ability to easily opt-out of this. Users of the platform can manage some aspects of their data, for example, through account settings or when interacting with support. Nevertheless, the ability to fully manage personal data, including its deletion or restriction of use, may be limited and does not meet the standards set in the EU, such as the right to be forgotten (GDPR, Article 17) and the right to data portability (GDPR, Article 20). If Kaspi were operating within Europe, it could face a number of legal issues. The use of personal data for advertising without obtaining explicit user consent would violate GDPR rules (Article 6(1)(a)). Moreover, failing to inform users about how their data is processed could lead to fines. The lack of full control over their information, including the right to deletion (Article 17), would also be considered a violation of European laws. As a result, Kaspi would have to significantly revise its policy and procedures regarding data to comply with the strict GDPR standards required to operate in the EU.

The Tengrinews website contains a privacy policy and terms of use for data (Privacy Policy, 2025). These documents describe how the platform processes users' personal data, how it may be used, and what measures are taken to protect it. Specifically, information may be collected to improve the services and to display ads tailored to users' interests. The privacy policy provides general information on the collection and use of data for advertising but may not meet all the strict requirements of European laws such as GDPR. For example, obtaining user consent for data processing and targeted advertising is not always detailed, which may be problematic from the perspective of European standards (GDPR, Article 6(1)(a)). It is also not clearly stated how users' data is processed in accordance with the data protection norms of Kazakhstan. The website uses cookies to track user activity and improve advertising, but consent for the use of these files is not always explicitly requested, as required by European standards (ePrivacy Directive, Article 5(3)). European laws such as GDPR require explicit user consent for the use of cookies for targeted advertising, which may not be complied with in this case (GDPR, Article 6(1)(a)). However, Tengrinews does provide limited data management options. Users can manage profile settings, but more detailed rights (such as the right to deletion or data portability) provided by the GDPR may be absent (Article 17; Article 20). If Tengrinews were operating in Europe, the website would face a number of legal issues. Particularly notable is the lack of explicit consent for the use of cookies and data collection for advertising, which violates the GDPR norms (Article 6(1)(a)). Furthermore, the absence of more detailed mechanisms for managing users' personal data, such as the right to deletion or data portability, could lead to sanctions (Article 17; Article 20). The lack of transparency in the privacy policy and terms of use may also raise concerns from regulators in Europe (Article 13).

The Krisha website presents a privacy policy and personal data processing terms. It describes the rules under which user data is collected and processed, including information about activities on the site, browsing history, IP addresses, device data, and advertising identifiers. The site operates within the framework of the legislation of Kazakhstan, but details about compliance with international standards such as the GDPR are absent. The Krisha policy allows for the processing of data to provide advertising and marketing services, facilitating the use of targeted advertising. However, compared to European standards such as the GDPR, it is not entirely clear how explicit user consent for data processing for these purposes is implemented (Article 6(1)(a)). The policy also lacks detailed information about users' rights to access their data or delete it, which could be an issue in the European context (Article 17; Article 20). The site uses cookies to improve functionality, but the process for obtaining explicit consent for the use of these files for advertising purposes is not as clearly stated as required by European standards (Article 6(1)(a)). In particular, users may not be fully informed about what data is collected through cookies and how it is used for advertising, which violates GDPR rules (Article 13). Krisha also provides limited options for data management. Users can update profile information and manage ads, but rights to delete data or restrict its use are not described as thoroughly as required by European rules (Article 17; Article 20). This could create issues for users if the site were operating within the EU. If the Krisha portal were operating in Europe, it could face problems related to the lack of explicit consent for data processing for targeted advertising and the use of cookies (Article 6(1)(a)). The lack of transparency in the privacy policy and the limited options for users to manage their data could lead to GDPR violations (Article 13). This could result in both fines and restrictions on access to the EU market.

An analysis of the three main online platforms in Kazakhstan showed that while fundamental data protection measures, such as privacy policies and the use of cookies, are in place, the overall level of personal data protection does not meet the stringent standards set by the GDPR in the EU. The key issues include a lack of transparency, the absence of explicit user consent for the use of personal data in targeted advertising and cookies, and limited options for users to manage their data. Although there are laws in Kazakhstan, such as the Law of the Republic of Kazakhstan No. 94-5 (2013), the current implementation of these protective measures does not align with European standards, which could result in legal challenges if these platforms were to operate in the EU.

Recommendations for improving legislation in line with international standards. In terms of legal risks, the absence of explicit user consent for targeted advertising violates Article 6(1)(a) of the GDPR, which requires that personal data processing for advertising purposes be based on explicit consent. This could potentially lead to fines and restrictions on the use of personal information, as outlined in

Article 83 of the GDPR, which specifies fines for non-compliance. Furthermore, users are often not fully informed about how their data is collected and processed, creating a gap in transparency and constituting a breach of Article 13 of the GDPR. This Article mandates that users be informed about how their data will be used and processed at the time of collection, ensuring transparency in data practices. Another issue is the limited ability of users to manage their data, including the right to request deletion or restrict data processing, which further increases legal risks under the GDPR. Specifically, Article 17 of the GDPR guarantees the right to deletion of personal data, also known as the "right to be forgotten", and Article 20 of the GDPR grants users the right to receive their data in a commonly used, machine-readable format and transfer it to another controller. These articles aimed at ensuring user control over their personal information.

The situation could be improved by meeting several requirements, which are already mandated by the existing and actively enforced laws of Kazakhstan. For example, platforms should implement mechanisms for obtaining explicit user consent for the use of data for advertising and cookies, in accordance with Article 6(1)(a) of the GDPR, which requires explicit, informed consent. Companies should provide more detailed and accessible information about the data collected, how it is used, and how users can manage their data. This would align with Article 13 and Article 14 of the GDPR, which mandate clear, transparent information for users regarding the processing of their data. Privacy policies should be written in a clear format and updated regularly, as required by Article 12 of the GDPR. In addition, platforms should enable users to exercise full control over their data, including the right to data deletion (right to be forgotten) and the right to data portability, which are key provisions of Articles 17 and 20 of the GDPR. To enhance competitiveness in international markets and improve user trust, Kazakhstani platforms should strive for GDPR compliance, which would not only improve data protection but also provide access to the European market without the risk of sanctions. This alignment with the GDPR would be critical for expanding their user base in the EU and ensuring legal compliance, as outlined in Article 45 of the GDPR.

Some other countries have unified their data protection laws with the GDPR to resolve discrepancies akin to those found in Kazakhstan's rules. For example, the Brazilian General Data Protection Law (2018) (LGPD). The GDPR serves as an inspiration for the LGPD, which sets forth extensive data protection guidelines. It guarantees transparency in data collection and use, requires organisations to have express consent before processing data, and gives people rights including data access, correction, deletion, and portability. These clauses support user confidence and ease cross-border data transfers by being in line with GDPR rules. In order to improve data protection measures, Japan's Act No. 57 on the Protection of Personal Information (2003) was updated in 2020. Stricter rules on data processing were brought about by the changes, which included specifications for getting consent, guaranteeing data correctness, and putting security measures in place. These modifications improve user confidence and facilitate more seamless data exchanges with EU nations by bringing Japan's data protection system closer to GDPR standards. These nations have improved their data governance systems and increased their competitiveness in global markets by enacting GDPR-aligned data protection regulations. Following strict data protection guidelines makes cross-border data transfers easier, lowers the possibility of legal issues, and increases user and business partner trust. Adhering to GDPR guidelines would also improve user confidence, make it easier for Kazakhstani platforms to access the European market, and reduce the possibility of sanctions, all of which would increase their global competitiveness. Nevertheless, the protection, processing, and use of personal data in Kazakhstan, particularly in the context of targeting and profiling, fail to address the growing influence of artificial intelligence tools utilised in these processes. This omission appears logical, as the use of such tools is often costly and, therefore, not as widespread outside America and the EU, including in Kazakhstan.

An interesting solution could be the implementation of blockchain as a decentralised digital system for data storage and transmission, which would make data collection and processing more transparent and secure. If internet resources in Kazakhstan employed blockchain to store user data (for example, information about transactions or preferences), this could ensure a high level of personal data protection. In this regard, M. Poelman and S. Iqbal (2021) noted potential challenges regarding rights such as the "right to be forgotten", since data stored on the blockchain cannot be deleted. However, this issue could potentially be circumvented by directing blockchain towards the creation of so-called "trusted advertising". In this case, user data would be stored on the blockchain and used for targeted advertising, but access to this data would be controlled and transparent for the users themselves, thereby enhancing the level of protection of their personal information. The relevance of blockchain technology to Kazakhstan and its ability to address numerous problems related to personal data protection was also highlighted by Y. Akhmetbek and D. Špaček (2021). Furthermore, it is worth noting the study by H. Kocharyan *et al.* (2021), which questions the effectiveness of the right to be forgotten in terms of privacy protection. The authors conclude that although this right is important for safeguarding confidentiality, its implementation faces significant challenges and is not always effective in guaranteeing the complete deletion of personal information. In this context, when comparing the uncertain possibility of deleting data with a technology that enhances the security of its storage and use, the choice becomes obvious, at least from the perspective of the legal aspects of protecting the rights of internet users and consumers of advertising content.

Discussion

The legal framework for profiling and targeted advertising in Kazakhstan reflects an effort to align with legislation, such as the Law of the Republic of Kazakhstan No. 94-5 (2013). However, the level of data protection and transparency regarding targeted advertising falls short of European standards, particularly the requirements of the GDPR. The main issues include the absence of explicit consent for the use of data, insufficient transparency concerning data processing, and limited options for users to manage their personal data. This creates legal risks for platforms in Kazakhstan, should they operate in Europe.

The study noted numerous challenges that Kazakhstan has already encountered on its path towards implementing new standards, including financial obstacles, as the introduction of mechanisms that fully ensure compliance with all

legal aspects related to the security and use of personal data for targeted advertising and profiling requires significant financial investments from companies in Kazakhstan. The fact that the implementation of the GDPR also affects market competition, including both large and small companies, as well as their ability to protect themselves within the legal framework, was also highlighted by M.S. Gal and O. Aviv (2020). The authors highlighted the GDPR's restrictions on using personal data for such purposes without explicit user consent and discussed the substantial impact of these restrictions on the digital advertising market and competition among companies that rely on such methods, which often prompts attempts to circumvent the legal regulatory framework.

The study also highlighted the challenges faced by companies and organisations in Kazakhstan when attempting to implement the GDPR and other European standards regulating advertising activities. For instance, the most common legal violations in Kazakhstan are insufficient user notification, failure to meet consent requirements, and improper data management. These issues are characteristic of other countries as well, as evidenced by the studies of M. Kive and J. Grasis (2020) and W. Presthus and K.F. Sønslien (2021). In this context, it is also worth mentioning the study by A. Wodi (2023), in which the author analysed the outcomes of the GDPR five years after its adoption, examined the future of personal data protection, assessed the effectiveness of the GDPR in ensuring data security, identified unresolved challenges, and explored how the regulation may evolve in the future. To the aforementioned issues, A. Wodi (2023) also added the discrepancies in the enforcement of laws related to targeting and profiling in advertising which are influenced by aspects and nuances of the extraterritorial application of the GDPR. This is particularly relevant for countries in Central Asia, including Kazakhstan. Researcher emphasised that the effectiveness of regulating the advertising sphere cannot be assessed in isolation from the legal frameworks of each country, within which these European legislative norms are implemented. The author also considered the prospects for legal regulation of advertising, a field that is expected to become increasingly complex with the advancement of technologies such as artificial intelligence, blockchain, and big data.

Among other conclusions, the authors argued that the legal maturity of countries plays the most critical role in determining the choice of approaches and tools for regulating the advertising sphere and protecting the rights of internet users. This also affects the actual, rather than formal, implementation of the adopted regulations. A. Prasad and D.R. Perez (2020) concluded that while the GDPR had positive effects in data protection, it may also harm innovation and the development of the digital business sector, particularly in advertising and data analytics. This, too, must be considered when developing legal mechanisms for regulating this sphere, as the legislation of a country should foster the growth of local businesses rather than place them in a position where they cannot effectively compete with financially stronger and legally better-protected international giants.

The conducted study also identified shortcomings in the practical implementation of the legislation of Kazakhstan in the regulation of advertising and the use of users' data for advertising purposes, based on the analysis of several popular Kazakhstani internet platforms. A study by M. Kretschmer *et al.* (2021) also noted that the use of cookie banners and privacy policies on websites often deviates in practice from the norms and legal practices adopted under the specific legislation of a country. The authors discussed issues related to the implementation of GDPR requirements, such as the complexity of privacy policy wording and its potential impact on user experience, which are also characteristic of Kazakhstan, as confirmed by this study. Moreover, the studies by L. Porcelli *et al.* (2024), and C. Santos *et al.* (2021) highlight the improper application of certain legal norms (including penalties for violations) in cases (countries, conditions) where organisations or enterprises are objectively unable to meet all the technical requirements necessary to comply with the legal conditions for handling users' personal data. This is particularly relevant to Kazakhstan during the period from 2020 to 2024.

The technical feasibility of complying with legal norms related to the collection and use of personal data, including in the context of advertising activities (particularly targeting and profiling), was also addressed by A. Kajcsa and L. Dogaru (2022). Among other issues, they highlighted a problem specific to Kazakhstan, which was also identified in this study: namely that data deletion, especially from complex AI systems, can be technically challenging and may not align with the immutability principles of certain systems, which should be considered in the legal field (but is absent in the regulations governing this area in Kazakhstan). In their paper, K. Wiedemann (2022) also addressed the regulation of profiling in the context of automated decision-making processes, including those involving the use of personal data for targeted advertising. The author emphasised that while the GDPR contains strict rules for automated decision-making, companies may face difficulties in complying with them, particularly in profiling for advertising purposes. However, they remarked that technical measures can assist in ensuring compliance with GDPR requirements, especially regarding transparency and obtaining consent, which should also be noted by Kazakhstan.

The study repeatedly mentioned, in various contexts, issues related to ensuring the protection of privacy rights in Kazakhstan, particularly in areas such as advertising, targeting, and profiling. The presented findings highlighted that the situation in Kazakhstan differs from European practices, as evidenced by the study of R.N. Zaeem and K.S. Barber (2020), which examined the impact of the GDPR on the privacy policies of enterprises and organisations. Their study identified key improvements in European and American approaches, particularly through the introduction of tools that provide users with greater control over their data, including the right to access, modify, and delete personal information. These improvements directly address some of the most pressing issues observed in Kazakhstan, and the authors also emphasised the importance of improving the legal framework governing advertising and personal data management, offering several solutions that Kazakhstan could adopt and implement within its legal system. In the same context, the paper by M. Bak *et al.* (2022) can also be considered, focusing on the legal regulation of the right to privacy and its enforcement concerning medical data, which may also be used for targeted advertising of specific medical devices and medications. Public display of such information could not only violate a user's right to privacy but also breach medical confidentiality, potentially causing reputational damage or psychological harm in certain cases.

This study also underscored that the supervisory authority in Kazakhstan not only has limited powers and independence compared to similar bodies in GDPR-compliant countries but also lacks adequate tools for monitoring and regulation specifically tailored to the realities of Kazakhstan. This problem is also noted by S. Amanzholova *et al.* (2021), who developed a tool that allows for the automated verification of websites' compliance with key GDPR aspects, such as data protection, transparency, and user consent collection and usage. This system needs to be tested in practice and integrated into the legal regulation mechanism of the advertising sector before the state can fully implement a legal framework for enforcement, monitoring, and the imposition of legal sanctions for non-compliance. Moreover, the mechanism proposed by the authors could be applied not only to the advertising sector but also to combating cyber corruption. In the study by S. Gulyamov and S. Raimberdiyev (2023), it was noted that Kazakhstan's inability to fully ensure the protection of personal data leads to cyber corruption and other cybercrimes involving the violation of user rights, highlighting the importance of implementing not only effective legal but also technical measures to regulate this area. Furthermore, Kazakhstan should also consider the need to adapt to other aspects of technological development, such as Regulation of the European Parliament and of the Council No. 2024/1689 (2024), mentioned in the study by C. Lawson-Hetchely (2022). This regulation will impose additional requirements on companies already operating under GDPR, significantly increasing the demands on legal regulation mechanisms for the use of artificial intelligence, particularly concerning the collection and processing of personal data necessary for targeting and profiling.

Thus, the problems faced by Kazakhstan in regulating profiling and targeted advertising are not unique and are largely similar to the issues experienced by other countries, particularly those that implemented international GDPR standards earlier and more comprehensively. This indicates that Kazakhstan is moving in the right direction, considering its current stage of legal and technological development. Moreover, this provides the country with an opportunity to learn from the mistakes of others and adopt proven practices from countries that have already succeeded in these areas.

Conclusions

The study identified key differences between regulation of profiling and targeted advertising in Kazakhstan and the European Union, particularly in the context of applying GDPR standards. The legislation of Kazakhstan in the area of personal data contains basic elements of data protection, such as requirements for obtaining user consent and privacy policies. However, the analysis of three major online platforms (Kaspi, Tengrinews, Krisha) revealed that local data protection norms have gaps compared to European standards.

The comparative analysis of the legislation of Kazakhstan and European norms (GDPR) demonstrated substantial differences in approaches to personal data protection. The main distinction is the mandatory obtaining of explicit user consent in the EU for data collection and processing, whereas, in Kazakhstan, this process may be less detailed and does not require such a high degree of transparency. European legislation also provides a broader set of rights for data subjects, including the right to data portability and deletion, which is insufficiently reflected in the laws of Kazakhstan. Furthermore, the EU has strict requirements for notifying users about data security breaches, while in Kazakhstan, this aspect may not be sufficiently developed. These differences create the need for modernising the legislation of Kazakhstan, especially in light of its aspirations to integrate with international markets and comply with global data protection standards.

Notably, Kazakhstani online platforms face a number of problems in the processing and protection of personal information. Users are not always able to give explicit consent for the use of data for targeted advertising. Privacy policies are often insufficiently transparent and understandable, which means that users are poorly informed about how their data is used. These issues are particularly important in the context of GDPR compliance, which requires strict adherence to transparency and consent rules. In addition, the analysis showed that platforms provide limited opportunities for managing personal data. Users can update their profile information but do not have full control over their data, including the right to delete or transfer it. This contradicts European norms, which grant EU citizens broader rights regarding their data.

Future research could focus on a detailed comparative analysis of practices on other key platforms and industries in Kazakhstan and on the analysis of the effectiveness of the implementation of new laws aimed at protecting personal data. This will help identify additional aspects for improving data protection and strengthening regulation.

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Conflict of interest

None.

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Правове регулювання профілювання та таргетованої реклами в Казахстані крізь призму європейського досвіду

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Анотація. Дослідження присвячене аналізу чинної нормативно-правової бази, що регулює профілювання і таргетовану рекламу в Казахстані, з урахуванням європейського досвіду. Дослідження включало огляд нормативно-правових актів Казахстану, що регулюють використання персональних даних, і порівняльний аналіз з положеннями Загального регламенту про захист даних. Аналіз продемонстрував, що хоча в Казахстані встановлені базові стандарти захисту персональних даних, рівень прозорості та контролю за процесом обробки даних залишається помітно нижчим порівняно з європейськими нормами. Основними проблемами є відсутність чіткої згоди користувачів на використання їхніх даних для таргетованої реклами, обмежені можливості для управління особистою інформацією, а також недостатні фінансові ресурси для застосування передових технологій і певні правові обмеження, спричинені жорсткою державною політикою. Аналіз казахстанських онлайн-платформ, зокрема таких, як Kaspi, Tengrinews і Krisha, показав, що процедури обробки даних на цих платформах не відповідають стандартам Загального регламенту про захист даних. Це створює юридичні ризики для бізнесу, особливо у зв'язку з потенційним виходом на європейський ринок. Результати дослідження підкреслили необхідність удосконалення національного законодавства у сфері захисту персональних даних. Рекомендується запровадити механізми, що забезпечують явну згоду користувача на обробку даних, підвищити прозорість політик конфіденційності, розширити права користувачів, зокрема можливість видаляти збережені дані та передавати їх. Приведення законодавства Казахстану у відповідність до європейських стандартів не тільки посилить захист прав громадян, а й підвищить конкурентоспроможність казахстанських компаній на міжнародній арені

Ключові слова: обробка персональних даних; міжнародні стандарти; політика конфіденційності; цифровий ринок; захист прав користувачів

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Pension funds in the context of globalisation: Legal regulation and challenges in countries with different pension systems

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Abstract. The purpose of the study was to identify key issues in the legal regulation of the pension fund of the Kyrgyz Republic and to develop proposals for their effective resolution based on the analysis of international practices in various economic systems. The study involved an analysis of legislation using the formal-legal method, a comparison of pension systems in Germany, Sweden, Chile, and Canada through the comparative method, and modelling potential development scenarios for pension legislation using legal forecasting. The main findings demonstrated that the pension system in Kyrgyzstan remains reliant on state sources, limiting its capacity to adapt to changing international financial conditions. The primary challenges in legal regulation included the lack of flexible investment mechanisms and weak control over asset management. Comparative analysis also revealed that countries with diversified pension systems, such as Germany and Canada, pension systems are more resilient due to asset diversification and the utilisation of private investment funds. In countries like Sweden and Chile, there is a growing interest in private pension savings and the implementation of digital technologies for managing pension assets, contributing to greater transparency and efficiency in pension systems. Based on the analysis of international practices, recommendations were developed to strengthen the legal regulation of the Kyrgyz pension fund, including the adoption of international standards of financial transparency and the development of mechanisms to attract private investments into pension assets. The findings indicated the necessity for modernisation of the legal regulation of pension funds in Kyrgyzstan, considering international practices to ensure resilience, transparency, and the protection of participants' rights

Keywords: international practices; legislative mechanisms; social security; asset management; investment strategies; accumulation models

Introduction

In the context of growing globalisation and the integration of national economies, pension funds play a crucial role in ensuring long-term financial stability and the social protection of citizens. Constant changes in global financial markets have a substantial impact on pension assets, necessitating the adaptation of management mechanisms. The development and implementation of more flexible and effective legislative norms, based on successful international practices, will help minimise risks and enhance the resilience of pension funds. However, within the framework of research on legal methods for regulating pension funds, there are issues that require further investigation.

Studying Kyrgyzstan's pension system's 2025 issues is important for many reasons. First, Kyrgyzstan, like many transitional economies, must maintain the long-term financial stability of its pension funds amid global economic swings. A large section of the population relies on pensions that often fall below the living wage, underlining the urgent need for pension system reforms to improve adequacy and sustainability (Aliev *et al.*, 2024). The global trend toward aging populations and rising life expectancy requires a strong pension system to support more retirees. Kyrgyzstan's pension system must adjust to demographic shifts by adopting more flexible and effective laws that can withstand economic challenges and protect citizens' investments. The 2025 pension rise of 7% is a good start, but it also highlights the ongoing pension stability issues (Pension to increase by…, 2024). As a growing economy struggles to manage

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pension funds, Kyrgyzstan's pension system is relevant to the region and the world. The insights can help establish best practises and novel solutions for similar settings, strengthening pension systems worldwide. Kyrgyzstan can learn from worldwide experiences and effective practices as it modernizes its pension system. Scientifically, this research is crucial for understanding pension fund management in transitional economies. It allows researchers to study how legislative and institutional frameworks affect pension systems and generate theoretical models for policymaking. The study also contributes to social security and welfare economics by examining the difficulties and solutions to aging populations' financial stability.

L. Clark (2023) emphasised that such funds play a key role in the global economy, but their effectiveness depends on a sustainable legal and institutional context. The author argued that unstable legal systems can hinder the effective management of fund assets and reduce their profitability. The study by M. Badrizadeh *et al.* (2023) underscored the importance of a regulatory framework in improving the efficiency of pension funds, demonstrating that clear and adaptive legal norms have a direct impact on their performance. S. Yakubu *et al.* (2023) highlighted the relationship between the resilience of funds and the capital market, where unstable legal norms weaken the integration of pension funds into financial markets, hindering their development and reducing the sustainability of pension systems in countries with diversified pension systems. Despite the valuable findings of these authors, questions remain regarding the need to modernise supervisory mechanisms and develop strategies for adapting legal systems in countries with transitional economies to improve transparency and protect pension assets amid global financial changes.

M. Brough and A. Kaur (2024) highlighted the growing demand for international pensions and savings plans due to increasing economic and political instability. The study emphasised that cross-border pension plans are becoming more crucial in protecting local employees from economic volatility and sovereign defaults, especially in countries with higher risks. This trend underscores the need for robust global pension frameworks to ensure financial security for employees amidst global uncertainties. According to A. Gogoi (2023), globalisation has introduced both opportunities and challenges for pension provision. It has facilitated the movement of capital and labour across borders, influencing pension systems' design and sustainability. However, it has also created issues such as increased competition and the need for international coordination to ensure the portability of pension rights.

Another issue in this field is the lack of effective mechanisms for protecting participants. In many countries, such as Georgia and Moldova, there is insufficient legal protection for participants in funded pension schemes, which increases the risk of loss of savings during economic crises or financial abuse. To mitigate these risks, the implementation of more robust legal mechanisms is required to ensure the security of pension assets and the protection of participants' rights. D.T. Syamsudin and R. Saraswati (2022), examining this issue, also highlighted the deficiency of legal mechanisms, failing to provide an adequate level of protection for employees under pension schemes. The authors emphasise the need for improved legal regulation to ensure more reliable protection of participants' savings. A. Kabašinskas (2024) focused on systemic risks to pension funds, noting that inadequate regulation can lead to a decline in their financial stability, ultimately weakening the protection of participants' rights. The study by H.P. van Dalen and K. Henkens (2023) stressed that trust in pension funds is directly linked to their financial stability, and the lack of reliable protection mechanisms reduces this trust, leading to decreased public participation in pension programmes. However, digitalisation and the introduction of modern technologies to improve monitoring and ensure transparency in pension fund management remain insufficiently explored. These could significantly enhance participant protection and minimise the risks of abuse.

Another problem to note is the lack of effective long-term investment strategies. In diversified pension system, many funds face limited access to long-term investment mechanisms, which restricts their ability to maintain high returns and resilience. Investments are often concentrated in government bonds, resulting in insufficient portfolio diversification and increased risks for participants. Research by other authors also highlights the importance of effective long-term investment strategies for the sustainability of pension funds, particularly in developing countries. N.H. Twalib and M.T. Jilenga (2024) noted that limited access to diversified investment opportunities and dependence on government bonds negatively impact the financial stability of funds, reducing their capacity to generate high returns. The study by M.N. Nwala *et al.* (2024) similarly found that investments in low-yield instruments, such as government bonds, limit the efficiency of pension funds, thereby increasing risks for participants. P. Tomassetti (2023) draws attention to the importance of sustainable investment strategies in the context of social responsibility and sustainable development, highlighting that pension funds focused on short-term or poorly diversified investments risk losing financial stability and failing to meet contemporary sustainable investment standards. Despite the important findings presented by these authors, the development of innovative financial instruments and technologies that could enhance the accessibility and efficiency of long-term pension fund investment remains underdeveloped.

The analysis of the studies of the aforementioned authors allows concluding that there are a number of unresolved issues in the regulation of pension funds in the context of globalisation. Therefore, the purpose of the study was to identify the main legal challenges associated with the regulation of the pension system of the Kyrgyz Republic and develop recommendations for improving the regulatory framework based on international experience. The main objectives of the study iincluded: analysing the legislative mechanisms for regulating the pension system in the Kyrgyz Republic; identifying and structuring problems and shortcomings in existing regulations; examining international experience in regulating pension systems in various economic contexts; and developing recommendations for improving the regulatory framework of pension provision in the Kyrgyz Republic based on global practices.

Materials and methods

In the course of the study, the formal-legal method was applied to analyse the legislative mechanisms for regulating the pension system in the Kyrgyz Republic, which is one of the key tools for evaluating and interpreting legal norms. As part of this method, the laws and regulations governing the pension system of Kyrgyzstan were examined, such as Law of the Ministry of Justice of Kyrgyz Republic No. 20

"On State Social Insurance" (1996), Law of the Ministry of Justice of Kyrgyz Republic No. 57 "On State Pension Social Insurance" (1997), Rules for Payment by the Social Fund of the Kyrgyz Republic of Pension Savings of the State Accumulative Pension Fund (2012), as well as Decision of the Ministry of Justice of Kyrgyz Republic No. 670 "On Approval of the Concept of Development of the Pension System of the Kyrgyz Republic" (2014). These regulations were analysed to identify their compliance with the principles of the country's legal system and international pension provision standards. The formal-legal method allowed for a detailed analysis of laws in terms of their internal logic, legal technique, and the precision of formulations. In addition, this method enabled an assessment of how well the existing regulations align with the goals of social protection and provide guarantees for the stability of the pension system.

A comparative method was applied for analysing international practices, which allowed for a comparison of the legal mechanisms regulating pension systems in different countries. The comparative method was used to examine in detail the regulations governing pension systems in countries with different pension models, such as Germany, Sweden, Chile, Canada, and Kazakhstan. These countries were selected due to their diverse pension structures, representing different approaches to state and private pension schemes, as well as their involvement in international pension cooperation. Germany was chosen due to its well-established multi-tier pension system, which combines statutory, occupational, and private pensions. Sweden's pension model is of interest due to its notional defined-contribution system, which includes automatic balancing mechanisms. Chile represents a pioneering case of pension privatisation, transitioning from a pay-as-you-go (PAYG) system to a fully funded model (OECD…, 2016). Canada offers a mixed pension system that integrates state-funded pensions with employer-based schemes, and Kazakhstan was included as a post-Soviet country with a reformed pension framework based on mandatory individual accounts (Old Age Security Act, 1952; Treaty on the Eurasian…, 2014).

The following legal documents were analysed: Social Code of Germany (1989), the Law of Germany "On Improve Company Pension Provision" (2018), the Retirement Assets Act of Germany (2001), Law of Sweden No. 230 "On the Pension Authority's Insurance Activities in the Premium Pension System" (2017), No. 674 "On Income-Based Retirement Pension" (1998); Law of Sweden No. 125 "On the Transfer of the Value of Pension Rights to and from the European Communities" (2002), Decree Law of the Ministry of Labour and Social Security No. 3.500 "On Establishes New Pension System" (1980), Law of the Ministry of Labour and Social Security, Undersecretariat of Social Security No. 20.255 "On Establishes Pension Reform" (2008), Law of the Ministry of Labour and Social Security No. 20.894 "On Extends the Obligation to pay Contributions for Self-Employed Workers and Adjusts the Pension Regulations that Indicates" (2016), Law of the Ministry of Labour and Social Welfare No. 21.419 "On Creates the Universal Guaranteed Pension and Modifies the Legal Bodies that it Indicates" (2022), Canada Pension Plan (1985), Income Tax Act (1985), Old Age Security Act (1952), and Pension Benefits Standards Act (1985). This enabled the identification of successful practices used in these countries to ensure the stability of pension funds, effective asset management, and protection of the rights of pension system participants. A detailed analysis of the approaches to regulating pension assets was conducted, with particular attention paid to the diversification mechanism of pension portfolios.

The study analysed current trends and reforms in pension legislation both in Kyrgyzstan and internationally using legal forecasting. This method allowed for not only evaluating the current state of legal regulation of the pension system but also modelling possible scenarios for the development of legislation, based on global economic trends, changes in the labour market, and demographic changes. International reforms in countries with stable pension systems, such as Sweden, Germany, Canada, and Chile, were analysed to identify key legal tools that could be adapted for the Kyrgyz Republic. In addition, factors such as the increasing proportion of the elderly population, decreasing youth employment rates, and changes in the state's social policy were considered in the forecasting. The forecast included an assessment of how these factors might affect the long-term sustainability of the pension system and lead to the need for a revision of current legal norms. Special attention was given to the prospects for improving the legislation regulating the investment activities of pension funds, as the effective management of pension assets is becoming increasingly important in the context of global economic changes.

Results

Pension funds are specialised financial institutions created for the accumulation, investment, and distribution of citizens' pension savings, providing financial protection during retirement. The main objective of pension funds is to provide individuals with the opportunity to build long-term savings that will ensure a stable income in old age. Pension funds accumulate resources through regular contributions from participants (employees and employers) and invest these resources in various financial instruments to increase their value (Hammond *et al.*, 2023). The funds play an important role in the social and economic life of the state, as they contribute not only to the protection of citizens' pension rights but also to the development of national economies through investments in infrastructure, government bonds, and other financial assets. The successful functioning of pension funds directly depends on stable legal regulation, transparency in asset management, and reliable investment strategies, making them a vital element of any pension system in the context of global economic changes.

The legal regulation of pension funds in the Kyrgyz Republic is conducted through Law of the Ministry of Justice of Kyrgyz Republic No. 20 "On State Social Insurance" (1996), Law of the Ministry of Justice of Kyrgyz Republic No. 57 "On State Pension Social Insurance" (1997), Rules for Payment by the Social Fund of the Kyrgyz Republic of Pension Savings of the State Accumulative Pension Fund (2012), as well as Decision of the Ministry of Justice of Kyrgyz Republic No. 670 "On Approval of the Concept of Development of the Pension System of the Kyrgyz Republic" (2014).

Law of the Ministry of Justice of Kyrgyz Republic No. 20 "On State Social Insurance" (1996) is one of the key regulations governing compulsory social insurance, including pension provision in the Kyrgyz Republic. This law establishes the foundations for the functioning of the state pension system based on the principles of solidarity, where current contributions from employees and employers are used to pay

pensions to current pensioners. Article 3 of the Law of the Ministry of Justice of Kyrgyz Republic No. 20 (1996) sets out the basic principles on which the system of state social insurance in the Kyrgyz Republic is based. One of the key principles is the mandatory and universal nature of social protection, meaning that every citizen must be covered by the social insurance system. The Law of the Ministry of Justice of Kyrgyz Republic No. 20 (1996) also guarantees that the state commits to maintaining the achieved level of social protection, ensuring the stability of payments. The principle of differentiation provides that the amount of social assistance depends on the contribution of each individual, considering their work experience and the circumstances of the insured event. An important aspect is also the personal responsibility of the insured persons, which includes their active participation in the arrangement and financing of insurance. The role of public associations in controlling the insurance system is additionally emphasised, ensuring its transparency and development.

One of the key components of the pension system of the Kyrgyz Republic is the State Accumulative Pension Fund, established to ensure the long-term financial sustainability of the pension system. The State Accumulative Pension Fund is a specialised mechanism that accumulates contributions from participants for subsequent investment with the aim of increasing pension savings. This fund operates on the principles of mandatory pension savings, making it an important element in the transition from a solidarity-based system to a more sustainable accumulative pension model.

An important part of the development of the pension system is Decision of the Ministry of Justice of Kyrgyz Republic No. 670 (2014). This document outlines the strategic areas for reforming the pension system, including the improvement of mechanisms for both state and accumulative pension provision. The concept aims to strengthen the role of the accumulative component, enhance the sustainability of the pension system, improve the investment strategies of pension funds, and provide greater protection for citizens' pension rights. The Decision of the Ministry of Justice of Kyrgyz Republic No. 670 (2014) emphasises the need for modernising the pension fund management system, which will ensure long-term financial sustainability and improve the level of pension provision.

The Law of the Ministry of Justice of Kyrgyz Republic No. 20 (1996) defines the procedures for mandatory social insurance for citizens and establishes legal mechanisms for ensuring pension payments. The Law of the Ministry of Justice of Kyrgyz Republic No. 20 (1996) regulates the relationships between insured persons, employers, and government bodies responsible for collecting and distributing pension contributions. The primary goal of Law of the Ministry of Justice of Kyrgyz Republic No. 20 (1996) is to guarantee social protection for citizens by providing pension payments in old age, in the event of disability, and in the case of the death of a breadwinner. Article 5 of this law establishes mandatory pension insurance contributions to be made by both employees and employers. These contributions are accumulated in the Social Fund and used to pay pensions to current retirees, reflecting the solidarity-based pension provision model. In addition, Clause 2 of Article 6 of the Law of the Ministry of Justice of Kyrgyz Republic No. 57 (1997) establishes an important provision, whereby public oversight of the implementation of the law's provisions is entrusted to trade unions. This mechanism of public oversight ensures the transparency and accountability of government bodies responsible for pension insurance.

The process of pension savings payments to system participants is regulated by the Rules for Payment by the Social Fund of the Kyrgyz Republic of Pension Savings of the State Accumulative Pension Fund (2012). Clause 1 of the Rules stipulates those payments are made upon reaching retirement age, in the case of disability, or upon the death of the insured person. The provision of Clause 2 establishes that pension savings may be paid either in a lump sum or through regular payments, depending on the amount of accumulated funds. Special attention is given to the rights of heirs to receive unpaid pension savings in the event of the participant's death, as regulated by Clause 14 of the Rules for Payment by the Social Fund of the Kyrgyz Republic of Pension Savings of the State Accumulative Pension Fund. These rules play a key role in ensuring the transparency and fairness of the payment system, guaranteeing that participants and their heirs receive funds in accordance with the law.

However, an analysis of the legislation regulating pension funds in the Kyrgyz Republic has revealed several key issues in legal regulation that directly affect the stability of the pension system and the protection of participants' rights. The primary legislative framework is the Law of the Ministry of Justice of Kyrgyz Republic No. 20 (1996), which establishes the principles of mandatory and universal pension insurance, the solidarity-based pension provision model, and oversight by public associations. However, despite the established principles, the system faces a number of issues, both legal and economic.

The first problem, related to the insufficient flexibility of the solidarity-based pension system, is particularly acute in the context of population ageing and demographic changes. In the Kyrgyz Republic, as in other countries with transitional economies, there is a trend towards a reduction in the economically active population and an increase in the number of pensioners. This leads to a decrease in the number of workers contributing to the Social Fund, while the number of people receiving pensions continues to grow. Within the framework of the solidarity system, the contributions of current workers are used to pay pensions to current retirees, which, in the context of demographic imbalance, creates a significant burden on the fund. Moreover, the contribution rates set by law do not correspond to the actual needs of the fund to cover all pension payment obligations, particularly in conditions of inflation and economic instability. As a result, the fund faces a deficit, which threatens its long-term financial sustainability (Zholboldueva *et al.*, 2024). To ensure the sustainability of the system, additional sources of funding, such as government subsidies or changes to the contribution structure, and reforms aimed at modernising the pension system and reducing the burden on the solidarity model, are necessary.

The second issue is the inadequate protection of accumulative pension funds. The State Accumulative Pension Fund, as provided for by legislation, is theoretically intended to ensure the financial sustainability of the pension system through the investment of accumulated funds. However, the problem lies in the insufficiently developed legal framework regulating the investment activities of pension funds. Existing laws fail to provide clear mechanisms for the control and oversight of pension asset management and do not offer

participants adequate guarantees for the security of their funds. As a result, the fund's investment strategies are often focused on low-yield instruments such as government bonds, which limits portfolio diversification and reduces the overall return of the fund (Pigai, 2024). In the context of Kyrgyzstan's unstable economy, such dependence on government bonds increases the risk of underperformance, adversely affecting the future size of pension payments. The lack of more flexible and profitable investment instruments, combined with weak regulatory oversight of asset management, exacerbates risks for system participants. Without sufficient diversification and robust mechanisms for managing investments, funds become vulnerable to economic shocks, potentially leading to reduced savings and a decline in public trust in the pension system.

The third issue is the insufficient legal protection of pension system participants, which is particularly important in the context of economic instability and the lack of transparency in the management of pension funds. Despite the legislated mechanism for public oversight through trade unions, as specified in Article 6 of the Law of the Ministry of Justice of Kyrgyz Republic No. 57 (1997), this oversight remains largely formal and insufficiently effective in practice. Trade unions often lack the necessary resources and tools for comprehensive monitoring of pension fund activities, which weakens their role in protecting the rights of insured individuals.

The lack of transparency in the management of pension fund assets leads to risks of misuse, inefficient allocation of resources, and insufficient accountability from managers. Furthermore, the existing Rules for Payment by the Social Fund of the Kyrgyz Republic of Pension Savings of the State Accumulative Pension Fund (2012), which regulate the rights of participants and their heirs, do not account for the specifics of force majeure circumstances such as economic crises, pandemics, or other unforeseen events. This creates uncertainty for participants, who, in times of crisis, may find themselves in a vulnerable position due to the lack of flexibility in payment regulations. The insufficient adaptation of the legislative framework to such situations underscores the need to revise existing norms to enhance the level of legal protection for participants, ensure transparency in fund management, and strengthen the role of public oversight to minimise risks and abuses.

The economic system of the Kyrgyz Republic, which is in a transitional phase, adds further complications to the functioning of the pension system. Economic instability manifests in low levels of income among the population, which reduces the volume of pension contributions to the Social Fund. This results in a shortage of financial resources to ensure stable and adequate pension payments. An important contributing factor is the high share of the informal economy, where many workers are not officially registered and therefore do not contribute to the pension system, further decreasing the fund's revenues. Economic growth in the country remains slow, which does not allow pension assets to be maintained at a level necessary for the long-term sustainability of the system. The lack of diversified income sources for pension funds generally leads to their dependence on government support and limits opportunities for investment in more profitable financial instruments (Kapakov, 2023).

In such conditions of economic instability, the pension system of Kyrgyzstan requires profound reforms that consider both legal and economic aspects aimed at enhancing the financial sustainability of funds, expanding economic opportunities to increase contributions, and reducing reliance on the informal economy. Thus, the legal regulation of pension funds in the Kyrgyz Republic faces a number of challenges that necessitate a comprehensive approach to pension system reform. To develop recommendations for improving the legal regulation of pension funds in Kyrgyzstan, an analysis of international experience in countries such as Germany, Sweden, Chile, and Canada were conducted to examine successful models of pension asset management and protection (Table 1).

Table 1. Analysis of pension systems in countries with different economic models

Country	Economic system	Pension system	Features of the pension system
Germany	Social market economy	Multi-layered model: mandatory state pension insurance, corporate and private savings schemes	Asset diversification, state control through BaFin, corporate pension schemes, additional savings via participation in professional pension programmes
Sweden	Social market economy with elements of social democracy	Three-tier system: state pension, private pension funds, voluntary savings programmes	Individual pension accounts with the option to choose investment instruments, state support for sustainable investments, high system transparency
Chile	Transitional market economy	Funded system with mandatory individual pension accounts managed by Administradoras de Fondos de Pensiones (AFP)	Competition among AFPs, asset diversification through investments in stocks, bonds, international markets, and infrastructure projects, issues with income inequality
Canada	Capitalist economy with a high degree of state intervention	Multi-tiered system: state pension, corporate programmes, Registered Retirement Savings Plan (RRSP)	Asset diversification through the Canada Pension Plan Investment Board (CPPIB), management of corporate pension schemes, voluntary savings with tax incentives through RRSP, strict oversight of investment policy

Source: created by the authors based on the Law of Germany "On Improve Company Pension Provision" (2018), Law of Sweden No. 230 "On the Pension Authority's Insurance Activities in the Premium Pension System" (2017), and Canada Pension Plan (1985)

Germany possesses one of the most sustainable and efficient pension systems, based on a multi-layered model comprising three main components: mandatory state pension insurance, corporate pension schemes, and private savings programmes (Fechter & Sesselmeier, 2024). The primary legal framework governing pensions in Germany is the Social Code (1989). This legislation establishes rules for contributions, pension benefit calculations, retirement conditions, and the legal basis for corporate and private pension schemes. A noteworthy milestone in the development of the pension system was the adoption of the Retirement Assets Act of Germany (2001). This law encourages citizens to make voluntary savings through private pension programmes by offering tax benefits and state subsidies. The private pension programme played a vital role in enhancing the financial independence of citizens in old age, complementing the mandatory state pension and enabling more flexible management of pension savings.

One of the key elements of the German system's success is the diversification of pension assets. Pension funds are invested in a wide range of financial instruments, such as government bonds, stocks, corporate bonds, real estate, and other assets. This diversification minimises risks associated with financial market fluctuations and ensures steady growth in fund returns. Notably, corporate pension schemes, regulated by the Law of Germany "On Improve Company Pension Provision" (2018), provide employees with additional opportunities to accumulate funds through participation in professional pension programmes supported by employers. These programmes contribute to the diversification of savings, protecting them from market risks and improving the financial stability of pension funds. This law represents an important step in combating old-age poverty and strengthening social equity. Strict government oversight of pension funds is another critical aspect of the German pension system. Public authorities such as BaFin (Federal Financial Supervisory Authority) oversee pension funds, ensuring transparency in their operations and protecting the interests of participants. BaFin monitors the secure investment of pension fund assets and enforces compliance with requirements for asset diversification and risk minimisation (Janda, 2020).

Sweden boasts one of the most sustainable and flexible pension systems in the world, combining elements of mandatory and individual pension insurance. The Swedish pension system is governed by Law of Sweden No. 674 (1998), which regulates both mandatory state pension insurance and individual pension accounts. The Swedish pension model is built on three tiers: state pensions, private pension funds, and voluntary savings programmes. A key feature of the Swedish system is individual pension insurance, where part of the mandatory pension contributions is directed to individual accounts, allowing insured individuals to independently select investment instruments (Akarsu *et al.*, 2021). Participants in the system are provided with the opportunity to invest their funds in various financial assets, such as shares, bonds, and funds. This ensures portfolio diversification, reducing dependence on a single income source and minimising risks. The broad range of investment options enables participants to tailor their pension savings according to financial goals and market conditions.

Law of Sweden No. 230 (2017) plays a vital role in the management and oversight of premium pension accounts. It regulates the activities of the Pension Authority, responsible for managing premium pension assets. This legislation sets strict requirements for transparency and the security of investment activities, ensuring that participants can trust those managing their pension assets. An additional key element of the Swedish pension system is Law of Sweden No. 125 (2002), which allows participants to transfer accrued pension rights between different pension schemes. This is particularly relevant for individuals changing employment or participating in various pension programmes. This law provides flexibility in managing pension rights and helps prevent the loss of savings when switching employers or pension schemes.

It is important to note that Sweden actively promotes the use of sustainable and socially responsible investment funds, which is also a significant factor in the stability of pension savings. Transparency and access to information are among the most crucial aspects of the Swedish pension system. Each participant can monitor the status of their pension savings in real-time, select or change investment strategies, and receive regular reports on the performance of their assets (Väänänen, 2023). The online information system enables participants to independently manage their funds, significantly increasing public trust in the pension system.

Chile was one of the first countries to undertake a radical pension reform in 1981, replacing the conventional solidarity-based model with a fully funded system. Decree Law of the Ministry of Labour and Social Security No. 3.500 (1980) sets the rules and conditions for the functioning of the pension system based on individual savings accounts. Under this law, all workers are required to contribute to their individual pension accounts, which are managed by private pension funds known as AFPs. A key element of the Chilean model is the diversification of pension assets. Each pension fund manages investments based on a strategy that includes allocating assets across various financial instruments such as shares, bonds, international investments, and, importantly for Chile's economy, infrastructure projects. This diversification reduces risks and enhances the returns on pension savings while also contributing to the national economy by creating jobs and improving infrastructure (Barr & Diamond, 2008). Due to competition among private management companies, citizens can choose funds with the best conditions and returns, encouraging more efficient asset management. However, despite its successes, the system faces several challenges. One of the main issues is income inequality across different population groups. Many Chileans, particularly those in low-income categories, struggle to accumulate sufficient funds in their accounts to secure a comfortable pension (Diaz *et al.*, 2021). To address this issue, the Chilean government introduced Law of the Ministry of Labour and Social Security, Undersecretariat of Social Security No. 20.255 (2008), which aims to provide additional social protection for citizens with low incomes or insufficient pension savings. This law introduced the Basic Solidarity Pension for those who have not accumulated sufficient funds in their individual accounts. Furthermore, Law of the Ministry of Labour and Social Security No. 20.894 (2016) made pension contributions mandatory, aiming to expand the coverage of the pension system and ensure that more workers accumulate pension savings. This represented a significant step in addressing pension inequality and increased savings for those previously excluded from the system.

Recent reforms led to the adoption of Law of the Ministry of Labour and Social Welfare No. 21.419 (2022). The new law establishes a universal guaranteed pension, provided to all Chilean citizens over the age of 65, regardless of their pension savings. This measure was aimed at ensuring a minimum level of income for all elderly citizens and reducing poverty among retirees, particularly those who had insufficient savings under the contributory system.

Kazakhstan, as a member of the Eurasian Economic Union (EAEU) (2023), is actively participating in regional initiatives to improve pension fund management and investment strategies. Kazakhstan's pension system is based on the funded principle, where citizens make mandatory contributions to individual pension accounts managed by private pension funds. These funds invest in a variety of financial instruments, including equities, bonds and infrastructure projects, which helps to diversify assets and increase the return on pension savings. An important aspect of Kazakhstan's system is strict state control and transparency in the management of pension funds, which protects the interests of system participants (Abikenov *et al.*, 2019). Participation in the EAEU allows Kazakhstan to coordinate approaches to the regulation of pension funds with other member countries, which contributes to increased financial stability and economic integration in the region (Treaty on the Eurasian…, 2014).

Canada's pension system is one of the most efficient and sustainable in the world, due to its multi-tiered structure and combination of mandatory and voluntary contributions. It comprises three main components: public pensions, employer-sponsored pension schemes, and private savings accounts. The Canada Pension Plan (1985) is a key legislative framework governing the public component of the pension system. It sets out the rules and mechanisms for mandatory contributions and pension payments and regulates pension fund operations. The first tier of the system is financed through mandatory contributions made by both employees and employers. These contributions are accumulated and managed by the CPPIB; an independent body responsible for overseeing the assets of the pension plan. The CPPIB invests pension funds in a diverse range of assets, including real estate, equities, bonds, infrastructure projects, and international investments. This approach ensures a high degree of diversification, which minimises risks associated with financial market fluctuations and consistently increases returns on pension savings. A notable feature of the CPPIB is its strict adherence to investment discipline and transparency in asset management, enabling effective oversight of fund allocation and growth. The Old Age Security Act (1952) governs the pension system that provides monthly payments to Canadian citizens and permanent residents aged 65 and older. This system is funded through tax revenues, distinguishing it from a contributory scheme. An important component of the programme is the Guaranteed Income Supplement, which is offered to low-income retirees. This supplement plays a crucial role in ensuring a minimum level of income for vulnerable populations, helping to reduce poverty among the elderly.

The second tier of the system is represented by corporate pension schemes offered by employers to their employees. These programmes are funded by both employers and employees and are also managed based on asset diversification, which mitigates risks for participants (Martin, 2024). Employees can voluntarily participate in these programmes, enabling them to accumulate additional pension savings beyond the public pension. The Pension Benefits Standards Act 1985) regulates corporate pension programmes by setting minimum standards for their registration, funding, management, and the provision of information to participants. This legislation plays a vital role in safeguarding workers' rights and establishing equitable conditions for participation in corporate pension plans.

The third tier includes voluntary pension savings, such as the RRSP, which is regulated by the Income Tax Act (1985). The RRSP allows citizens to make contributions to savings accounts with tax benefits, encouraging long-term retirement savings. Notably, the RRSP provides participants with the opportunity to select their own investment instruments, enabling them to tailor their pension strategies to individual financial goals and risk preferences (Liukko *et al.*, 2023). Thus, an analysis of the pension systems in Germany, Sweden, Chile, and Canada reveals that the key factors underpinning their sustainability are asset diversification, flexible savings mechanisms, strict government oversight, and transparency in management. These elements could be adapted to reform the pension system in Kyrgyzstan, considering national economic characteristics. Based on the analysis of international practices, the following recommendations can be proposed to improve the legal regulation of pension funds in the Kyrgyz Republic (Table 2).

Table 2. Recommendations on reforming the pension system in Kyrgyzstan

Recommendations	Description	Examples
Development of a multi-tier pension system	The creation of several sources of pension provision, including state pensions, corporate pension schemes, and private savings programmes. This reduces dependence on the state fund and increases pension payments.	Germany: mandatory pensions, corporate and private programmes
Introduction of individual pension accounts	The introduction of accounts where citizens can independently manage investments, select financial instruments, and assess returns. Individual accounts increase the flexibility of the system and asset returns.	Sweden: individual pension accounts with independent investment choices
Strengthening state control and transparency	The establishment of an independent body to oversee the activities of pension funds, conduct audits, and monitor investments. This enhances trust and protects citizens' savings.	Germany: BaFin, Canada: CPPIB – government regulatory bodies
Diversification of pension assets	The expansion of investment opportunities for pension funds, including international markets, real estate, and infrastructure projects. Asset diversification reduces risks and increases returns.	Chile and Canada: asset diversification through investments in international markets

Source: created by the authors based on Pension Benefits Standards Act (1985) and Law of Sweden No. 674 "On Income-Based Retirement Pension" (1998)

The implementation of a multi-tier pension system, similar to the German model, involves creating mandatory state pensions, corporate pension schemes, and private savings programs. This approach ensures a more stable and diversified system, allowing citizens to accumulate additional pension funds through corporate programs and individual savings. Corporate pension schemes can be financed through joint contributions from employers and employees, while private savings programs enable citizens to choose investment strategies tailored to their financial goals. This reduces dependence on the state pension fund and provides higher pension payments through increased savings (Law of Germany…, 2018).

The experience of countries like Sweden, Germany, and Canada highlights the importance of individual pension accounts, strong state oversight, and asset diversification in pension systems (Old Age Security Act, 1952; OECD…, 2016). In Kazakhstan, the pension system has undergone significant reforms to enhance its sustainability and efficiency. The introduction of a mandatory accumulative pension system in 1998 allowed citizens to contribute to individual pension accounts, promoting personal savings and investment (Treaty on the Eurasian…, 2014). The Kazakhstan pension system also emphasizes strong state oversight through regulatory bodies like the National Bank of Kazakhstan, which ensures the security and effective management of pension assets. Individual pension accounts allow citizens to manage their savings and invest in various financial instruments, promoting flexibility and higher returns. Strengthening state oversight through independent bodies can ensure the security and effective management of pension assets. Diversifying pension fund investments beyond conventional instruments can minimize risks and increase returns. These global best practices can serve as a valuable foundation for improving the sustainability and efficiency of the Kyrgyz pension system.

In the context of globalisation and financial integration, pension funds are increasingly influenced by international financial markets, investment strategies, and regulatory frameworks. Many countries participate in international initiatives aimed at improving pension fund sustainability, financial stability, and protection of contributors' rights. The Organisation for Economic Co-operation and Development (OECD) (2016), and the International Labour Organisation (ILO) (2022) play significant roles in shaping international pension policies and best practices. These organisations provide guidelines on pension reform, regulatory standards, and risk management strategies, which are particularly relevant for emerging economies such as Kyrgyzstan. One important aspect of global interaction in pension fund management is the growing trend of cross-border investments. Pension funds in developed countries actively invest in international markets, including infrastructure projects, equities, and government bonds in emerging economies. This creates opportunities for capital inflow into developing countries, strengthening their economic stability and financial markets. However, it also introduces new challenges, such as exposure to global financial crises and the need for robust legal frameworks to protect domestic pension assets from external risks. International cooperation in pension fund regulation is also evident in regional economic unions, such as the EU, where harmonised pension policies are developed to ensure financial stability and equitable pension provision across member states. The European Insurance and Occupational Pensions Authority (EIOPA) (2025) provides oversight and regulatory recommendations to maintain the stability and efficiency of pension funds within the EU. Similarly, countries within the Eurasian Economic Union (EAEU) (2023), including Kyrgyzstan, are exploring coordinated approaches to pension fund management and investment regulations to enhance financial security and economic integration.

Another critical aspect of global interaction in pension funds is the adoption of digital financial technologies. Many pension systems worldwide are integrating blockchain technology, artificial intelligence, and big data analytics to improve the efficiency, security, and transparency of pension fund operations. For instance, Estonia has successfully implemented blockchain-based digital pension accounts, allowing real-time monitoring and secure transactions for pension contributions and withdrawals (Eurasian Economic Union, 2023). These technological advancements offer potential benefits for Kyrgyzstan, where digitalisation of pension management could enhance transparency, reduce administrative costs, and improve service accessibility for citizens. Thus, the global interaction in the field of pension funds underscores the importance of adopting international best practices, fostering cross-border investment opportunities, and leveraging financial technologies to modernise pension systems. The experiences of leading economies in pension fund regulation and investment strategies can serve as a valuable foundation for enhancing the sustainability and efficiency of the Kyrgyz pension system.

Discussion

The analysis of the findings demonstrates that the key factors for the successful operation of pension funds are asset diversification, state control, flexibility of accumulation mechanisms, and transparency in management. The adaptation of these elements is a key aspect for the reform of the pension system of Kyrgyzstan, which will enhance its financial stability and protect the interests of participants in the context of economic instability.

The analysis of the legislative mechanisms of the Kyrgyz Republic revealed that the pension system faces a number of legal and economic problems that reduce its effectiveness and sustainability. The main difficulties are related to the insufficient flexibility of the solidarity pension system, weak legal protection for participants in accumulation pension funds, and inadequate state control over the investment of pension assets. These issues are exacerbated by economic instability, a high level of shadow employment, and low-income levels among the population, which leads to a deficit in the pension fund and limited opportunities for asset diversification. Research by other authors also highlights problems in pension fund regulation. L. Defau and L. De Moor (2020) emphasise the importance of diversifying pension assets and investing in alternative assets, pointing to problems arising in the context of low interest rates, which reduce the returns on conventional investment instruments. Their advocacy for investment in alternative assets resonates with the findings of this study, which also stresses the potential benefits of investing in real estate, infrastructure, and private equity. However, a key divergence lies in the practical feasibility of such investments in Kyrgyzstan. While the international literature presents these strategies as essential for maintaining returns in developed economies, the lack of infrastructure and resources in transition economies like Kyrgyzstan presents

significant obstacles to their implementation (Khamzaeva *et al.*, 2020). As a result, while the principle of diversification is universally endorsed, its operationalization requires a tailored approach that considers local economic realities.

E. Fragnière *et al.* (2023) note that to ensure the long-term sustainability of pension funds, predictive analysis should be used to identify weak signals, such as new investment trends or changes in the operational processes of management companies, which allows strategies for asset management to be adapted promptly. While the authors advocate for the integration of such technologies to anticipate market trends and optimize management strategies, this study presents a more cautious view. The practical challenges associated with adopting these technologies in Kyrgyzstan, where technological infrastructure remains underdeveloped, make the widespread implementation of such tools unfeasible in the near term. The gap between the technological advancements in developed countries and the current infrastructure in Kyrgyzstan suggests that a more gradual approach to incorporating data analytics and AI is necessary, one that considers both the technological landscape and the resources available. D.W.G.A. Broeders *et al.* (2016), in turn, indicate that achieving economies of scale in investment management is a substantial factor influencing the efficiency of pension funds. The authors highlight the challenge faced by pension funds in smaller economies, where the limited number of assets and participants prevents the achievement of economies of scale, leading to higher costs of investment management. Their assertion that larger economies benefit from reduced costs due to economies of scale is valid in developed countries, where pension funds can consolidate resources to negotiate favourable investment terms. However, in smaller economies like Kyrgyzstan, achieving such economies of scale is far more challenging. The limited size of the pension fund base and the relatively small number of participants prevent the achievement of cost efficiencies seen in larger economies (Borshch, 2024). This discrepancy highlights the need for regulatory mechanisms that foster cooperation and coordination among smaller pension funds to overcome this challenge.

The results of the study also showed that successful pension systems, such as those in Germany, Sweden, Chile, and Canada, share common features that ensure their sustainability and efficiency. Key elements include asset diversification, which reduces risks and increases returns; flexibility of accumulation mechanisms, providing citizens with the opportunity to choose their own investment strategies; stringent state oversight to ensure transparency in asset management; and access to information for participants in pension funds. The analysis demonstrated that these elements could be adapted to reform Kyrgyzstan's pension system, thereby enhancing its financial stability, improving asset management, and ensuring better protection of participants' rights in a transitional economy. D. Tchiotashvili *et al.* (2023), in their study on the challenges faced by Georgia's accumulation pension system, also emphasise the importance of international experience in pension fund regulation. The authors note that in countries with developed pension systems, such as Germany, successful pension fund management is associated with broad asset diversification, including investments in government bonds, equities, real estate, and other instruments, a finding also confirmed by this study. However, applying these models in Kyrgyzstan requires careful consideration of local economic and social conditions, including the high level of shadow employment and the low income of much of the population. Thus, while the general principles outlined in international research remain highly relevant, the implementation of such principles must account for the specific challenges of the Kyrgyz economy.

J. McCaskill *et al.* (2024), in their analysis of public pensions in Texas, highlight the importance of establishing systems that effectively manage collective pension funds. They observe that in countries with more flexible pension systems, such as Sweden, participants can independently select investment strategies, leading to more efficient asset management and reducing pressure on the collective fund. The authors' conclusions are well-founded, as flexibility in asset management indeed represents a significant advantage, enabling investments to be tailored to participants' individual goals, which can contribute to improved returns and stability of pension funds.

J. Berg (2022) focused on stringent regulation and state oversight, which are key advantages of Denmark's pension system. His work highlights that rigorous supervision of pension funds' activities minimises the risk of malpractice and enhances the transparency of asset management. This aligns with the practices of Germany and Canada, where state control by independent supervisory bodies, such as BaFin and CPPIB, fosters public trust in the system and protects the interests of participants. The author also notes that strict regulation prevents financial risks and ensures the long-term sustainability of the pension system. The conclusions of J. Berg (2022) can only be partially agreed with, as it cannot be claimed that strict control alone prevents financial risks, given that the financial sustainability of pension funds depends on a variety of factors. While state control and oversight play an important role in mitigating the risk of malpractice and ensuring transparency, effective asset management also requires flexibility, portfolio diversification, and well-considered investment decisions (Toktosunova *et al.*, 2024). In the context of volatile markets and economic instability, excessive rigidity in regulation could, conversely, constrain pension funds from responding promptly to market fluctuations and implementing innovative strategies to enhance returns. Achieving a balance between control and flexibility is a key factor in mitigating financial risks and ensuring the long-term sustainability of pension systems (Esenalieva *et al.*, 2023).

Based on the analysis of international experience, recommendations were developed to enhance the resilience of Kyrgyzstan's pension system. These recommendations include the introduction of a multi-tiered system, individual pension accounts, strengthened state oversight, and asset diversification. These measures would enhance the flexibility of fund management, minimise risks, and ensure the long-term financial stability of pension funds in the context of an unstable economy. A. van der Heide (2024) highlights the importance of the "de-risking" strategy, which involves reducing risks for pension funds through active asset management and optimising investment portfolios. The author suggests minimising reliance on volatile assets and utilising more stable instruments, such as government bonds and insurance products. This view can be partially agreed with, as reducing risks is vital for the stability of funds; however, excessive caution may limit returns, particularly in the context of unstable economies.

M. Hill (2007) stresses the need for pension reforms, such as the introduction of more flexible accumulation schemes and strengthened state control. The author's ideas on enhanced oversight and transparency align fully with the recommendations developed in the conducted research Finally, while international cooperation, as suggested by I. Wolf and L. Caridad López del Río (2024), is crucial for enhancing the efficiency and sustainability of pension systems, the implementation of such initiatives in Kyrgyzstan requires careful adaptation. Collaboration with international regulators and the exchange of best practices can undoubtedly improve the transparency and efficiency of pension fund management. However, the ability of Kyrgyzstan to implement such strategies will depend on overcoming structural barriers, such as limited infrastructure and the financial literacy of pension participants. Thus, while international cooperation offers significant potential for enhancing pension fund resilience, its impact will depend on the country's capacity to integrate global best practices into its unique context.

The international cooperation mechanisms suggested by several scholars present both opportunities and challenges for Kyrgyzstan's pension system reform. Although the exchange of best practices can certainly benefit countries like Kyrgyzstan, our findings indicate that without critical adaptation to local contexts, such knowledge transfer may yield limited results. This stands in contrast to the optimistic view prevalent in the literature that international cooperation automatically enhances system resilience. This analysis suggests that the effectiveness of international collaboration depends heavily on a country's absorptive capacity and institutional readiness – factors often overlooked in discussions of cross-border pension management frameworks. In conclusion, this study both builds upon and challenges existing scholarship regarding pension system reform in transitional economies. While international experiences provide valuable frameworks for reforming Kyrgyzstan's pension system, their application requires nuanced understanding of local economic conditions and institutional capabilities. The substantial differences the authors identified between theoretical benefits described in the literature and practical implementation challenges in Kyrgyzstan's context underline the need for context-specific approaches rather than wholesale adoption of models successful in developed economies. The findings advocate for a balanced approach that integrates flexibility, diversification, and strong state oversight while acknowledging the constraints posed by Kyrgyzstan's transitional economy.

Conclusions

The study has revealed significant challenges in the legal regulation of pension funds in the Kyrgyz Republic and identified potential solutions based on international experience. The analysis demonstrated that the current pension system faces several critical issues: insufficient flexibility of the solidarity-based system, inadequate protection of accumulative pension funds, and limited legal protection for pension system participants. These challenges are compounded by economic instability, high levels of informal employment, and low-income levels among the population.

The examination of successful pension systems in Germany, Sweden, Chile, and Canada revealed key elements that contribute to their sustainability and effectiveness: comprehensive asset diversification, flexible accumulation mechanisms, robust state oversight, and transparency in management. These countries' experiences demonstrate that a well-structured multi-tier pension system, combining mandatory state pensions with corporate schemes and private savings programs, can provide greater financial security for retirees while reducing pressure on state pension funds.

The analysis of the legal frameworks in these countries highlighted several advantages and disadvantages. In Germany, the legal framework is known for its robustness and comprehensive oversight, with a strong emphasis on transparency and accountability. The presence of an independent regulatory body ensures rigorous supervision and enforcement of regulations. However, the complexity of the regulatory environment can sometimes hinder innovation and flexibility in pension fund management. Sweden's legal system promotes individual participation through the use of individual pension accounts, which enhances personal engagement in pension savings. The regulatory framework is designed to be flexible and adaptable to changing economic conditions. However, the system's reliance on individual choice can lead to variability in outcomes based on personal financial literacy.

Chile's pension system is notable for its extensive investment diversification, which includes international markets, real estate, and infrastructure projects. The legal framework supports this diversification, contributing to the system's financial sustainability. However, the regulatory environment has faced criticism for insufficient protection of participants' rights, particularly in cases of market volatility. Canada's legal framework emphasizes strong governance and transparency, with the Canada Pension Plan Investment Board (CPPIB) playing a crucial role in managing pension funds. The system benefits from robust risk management strategies and a high degree of public trust. However, the regulatory complexity can sometimes lead to administrative burdens and delays in implementation.

The study also highlighted the importance of international cooperation in pension fund management, particularly in the context of globalisation and financial integration. The adoption of digital technologies, participation in international investment initiatives, and implementation of risk management strategies can significantly enhance the efficiency and sustainability of pension funds. The findings suggest that successful reform of Kyrgyzstan's pension system requires a comprehensive approach that considers both legal and economic aspects. This includes modernising the regulatory framework, strengthening oversight mechanisms, and expanding investment opportunities while ensuring adequate protection for pension fund participants. The implementation of these recommendations could significantly improve the financial sustainability of pension funds and enhance the social protection of citizens in the context of economic instability.

The limitations of the study are related to the economic specificity of the Kyrgyz Republic, which may constrain the speed and effectiveness of implementing international practices. Future research should focus on the development of models specifically adapted for small economies and the enhancement of infrastructure to support the implementation of modern technologies. These improvements would contribute to more effective management of pension assets.

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Conflict of interest

None.

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Пенсійні фонди в умовах глобалізації: правове регулювання та виклики в країнах з різними пенсійними системами

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Анотація. Метою дослідження було виявлення ключових проблем правового регулювання пенсійного фонду Киргизької Республіки та розробка пропозицій щодо їх ефективного вирішення на основі аналізу міжнародної практики в різних економічних системах. Дослідження включало аналіз законодавства з використанням формально-юридичного методу, порівняння пенсійних систем Німеччини, Швеції, Чилі та Канади за допомогою порівняльного методу, а також моделювання можливих сценаріїв розвитку пенсійного законодавства з використанням методу правового прогнозування. Основні висновки показали, що пенсійна система в Киргизстані залишається залежною від державних джерел, що обмежує її здатність адаптуватися до мінливих міжнародних фінансових умов. Основними проблемами правового регулювання є відсутність гнучких інвестиційних механізмів і слабкий контроль за управлінням активами. Порівняльний аналіз також показав, що в країнах з диверсифікованою пенсійною системою, таких як Німеччина та Канада, пенсійні системи є більш стійкими завдяки диверсифікації активів та використанню приватних інвестиційних фондів. У таких країнах, як Швеція та Чилі, зростає інтерес до приватних пенсійних заощаджень та впровадження цифрових технологій для управління пенсійними активами, що сприяє більшій прозорості та ефективності пенсійних систем. На основі аналізу міжнародних практик розроблено рекомендації щодо посилення правового регулювання пенсійного фонду Киргизстану, включаючи прийняття міжнародних стандартів фінансової прозорості та розробку механізмів залучення приватних інвестицій у пенсійні активи. Отримані результати засвідчили необхідність модернізації правового регулювання пенсійних фондів у Киргизстані з урахуванням міжнародного досвіду для забезпечення стійкості, прозорості та захисту прав

Ключові слова: міжнародний досвід; законодавчі механізми; соціальне забезпечення; управління активами; інвестиційні стратегії; моделі накопичення

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The role of constitutional litigation in the protection of fundamental human rights: An assessment of the Constitutional Court of the Kyrgyz Republic

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Abstract. The study of the Constitutional Court's effectiveness in protecting human rights in the Kyrgyz Republic is particularly relevant due to ongoing legal reforms and the increasing number of constitutional complaints. The research aimed to assess the Court's role in safeguarding constitutional rights by analysing case trends from 2022 to 2024. The study employed formal-legal, comparative legal, historical-legal, logical-legal, and legal concretisation methods to examine judicial decisions, legal frameworks, and the interaction of the Constitutional Court with state bodies. The analysis of judicial practice revealed that while the Constitutional Court plays a crucial role in upholding constitutional principles, challenges remain in its independence, accessibility, and the enforcement of rulings. It was found that the number of human rights-related appeals has increased, yet the acceptance rate for proceedings remains low, highlighting procedural barriers to constitutional justice. The study examined key cases on gender equality, labour rights, and electoral legislation, demonstrating the Court's influence on the legal landscape. A comparative analysis with Kazakhstan and Uzbekistan revealed common regional trends, including the political factors affecting constitutional

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adjudication. Additionally, the research identified a need for clearer legislative frameworks and institutional reforms to strengthen the Court's effectiveness in human rights protection. The results can be used to develop strategies for enhancing judicial independence, improving constitutional litigation procedures, and ensuring better enforcement of human rights protections within the legal system of the Kyrgyz Republic

Keywords: legal defence; judicial complaint; rule of law; legal control; fundamental rights and interests of citizens

Introduction

The role of constitutional justice in protecting fundamental human rights has gained increasing importance in the Kyrgyz Republic, particularly amid recent legal reforms and growing public demand for judicial accountability. The Constitutional Court plays a critical role in ensuring compliance with constitutional principles, yet challenges remain regarding the effectiveness and consistency of its decisions. In a broader regional context, Kyrgyzstan's experience contributes to the ongoing discourse on judicial independence and constitutional oversight in post-Soviet legal systems. On a global scale, the study aligns with international trends in constitutional adjudication, providing insights into the interaction between constitutional courts and democratic governance. The findings are particularly relevant for legal scholars, policymakers, and practitioners seeking to enhance the institutional capacity of constitutional courts. This research is timely in 2025, given the increasing number of constitutional complaints and the necessity for legal systems to adapt to evolving human rights standards. By addressing these pressing issues, the study advances both theoretical understanding and practical applications in constitutional law.

Some scholars such as Ahmad *et al.* (2022) and M. Florczak-Wątor (2020) were engaged in the study of this topic. In these scientific works the specificity of law-making of constitutional courts of developed European countries, such as Austria, Hungary, Poland, Bulgaria, Czech Republic is considered. The place of the Constitutional Court among the courts of general jurisdiction as well as executive authorities is analysed. The authors come to the conclusion that the most optimal situation is when the Constitutional Court is independent of other branches of power and can independently solve the issues of judicial self-government.

C. Grabenwarter *et al.* (2021) and T. Lailam and M.L. Chakim (2023) in their scientific works, carried out a comparative analysis of the activity of constitutional courts of different countries, such as Germany, Czech Republic and others. In addition, the authors study in detail the place of the Constitutional Court in the system of jurisdiction, analyse the peculiarities of the implementation of constitutional justice in modern conditions, as well as investigate the role and importance of constitutional courts as a separate branch of the judiciary. The authors conclude that in the developed democratic countries of the European Union the efficiency of the Constitutional Court, its independence and transparency have a significant role in the process of European integration. Since it is the bodies of constitutional justice that are the guarantor of ensuring all fundamental and state-guaranteed human and civil rights. Such authors as A. Wijaya and N. Nasran (2021) have analysed, synthesised and compared American and European models of constitutional control implementation. In this paper, both positive and negative aspects of the implementation of the European and American models of constitutional control and judicial proceedings were studied.

Taking into account that the Constitution and constitutional bodies in the Kyrgyz Republic are developing very dynamically, the aim of the study was to assess the effectiveness of the Constitutional Court in the field of human rights protection. This included analysing the number of human rights-related cases reviewed, tracking trends over time, and determining whether an increase in such rulings has contributed to a higher level of human rights protection in the Republic. The objectives of the research were to study and define the role of the constitutional jurisdiction body in the Kyrgyz Republic to ensure democratic statutes and the realisation of legal rights and interests of citizens, to study the genesis of the development of constitutional litigation in the Kyrgyz Republic, to identify the peculiarities of the interaction of the Constitutional Court with other bodies of state power, to determine the role, significance, and place of the Constitutional Court in the system of ensuring the fundamental rights of citizens of the Kyrgyz Republic.

Materials and methods

During the research some legislative acts were used, such as the Constitution of the Kyrgyz Republic (2021), Criminal Procedure Code of the Kyrgyz Republic (2021), Constitutional Law of the Kyrgyz Republic No. 133 "On the Constitutional Court of the Kyrgyz Republic" (2021), Constitutional Law of the Kyrgyz Republic No. 81 "On Amendments to the Constitutional Law of the Kyrgyz Republic "On the Election of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh of the Kyrgyz Republic" (2023), Constitutional Law of the Kyrgyz Republic No. 81 "On Amendments to the Constitutional Law of the Kyrgyz Republic "On the Election of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh of the Kyrgyz Republic" (2023), Rules of Procedure of the Constitutional Court of the Kyrgyz Republic (2022). Legal norms regulating and establishing the legal status and powers of the Constitutional Court, the procedure for filing and considering a constitutional appeal, and the time limits for the implementation of constitutional justice were studied.

This work analysed the peculiarities of the implementation of constitutional proceedings in the Kyrgyz Republic, the Republic of Kazakhstan, and the Republic of Uzbekistan. The next step for the research was the study of specific decisions of the Constitutional Court: the Decision of the Constitutional Court on the recognition of Part 6 of Article 28 of the Constitutional Law of the Kyrgyz Republic No. 68 "On the Election of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh of the Kyrgyz Republic" (2011) as not contradicting parts 2, 4, 5 of Article 23, parts 1-3 of Article 32, part 1 of Article 33 of the Constitution of the Kyrgyz Republic (2021); Decision of the Constitutional Court of the Kyrgyz Republic "On the Case on Verification of the Constitutionality of Part 13 of Article 121 of the Criminal Procedure Code of the Kyrgyz Republic" (2022).

For the purpose of a full and comprehensive study, special legal methods of scientific knowledge were used. Thus, using the formal-legal method, the Constitutional Law of the Kyrgyz Republic No. 133 "On the Constitutional Court of the Kyrgyz Republic" (2021), regulating the legal status and procedure of the Constitutional Court, as well as other norms of legislative acts in the field of constitutional jurisdiction were studied. The comparative legal method was used to study the American and European models and ways of implementing constitutional justice, and a comparative analysis of different bodies of constitutional control was carried out. Using the method of legal analysis, the decisions of the Constitutional Court were investigated for their significance and effectiveness in the sphere of protection of rights and freedoms of citizens. Using the historical-legal method, the study of the stages of development of constitutional legal proceedings in the Kyrgyz Republic was carried out, and the development of constitutional control bodies in the Kyrgyz Republic was studied taking into account the historical peculiarities of the formation of the rule of law in Kyrgyzstan. Using the logical-legal method, the stages of formation and development of the Constitutional Court were studied in a logical order in the context of the development of constitutional legal proceedings in Kyrgyzstan.

Results

At this stage of development of social relations and functioning of state bodies, the problem of ensuring the appropriate level of legality and observance of law and order in the sphere of realisation of fundamental rights of citizens is of high significance. Since, without ensuring such rights, further development of a democratic state is impossible. Therefore, a general tendency is the growing importance of constitutional justice bodies along with other public authorities in order to ensure a proper level of legal protection of citizens' interests.

In any democratic state, the significance and immanence of the Constitution of the Kyrgyz Republic (2021) is due to the fundamental, foundational, constitutive nature of this act. Since the Basic Law has the highest legal force and its norms have the force of direct action, it is obvious that the Constitution acts as a platform for all legislation. The constitutional values enshrined in the Basic Law are protected and implemented by the Constitutional Court, whose main function is to assess the extent to which the law (norm of law) under scrutiny complies with the provisions of the Constitution, while discrepancies with the constitutional provisions are fraught with the exclusion of the contested norm (Chemerinsky, 2023). Thus, through the constitutional review of laws, the Constitutional Court ensures the guarantee of the supremacy of the Constitution and the functioning of a real democratic state, as its decisions contribute to the formation of an effective mechanism to ensure the protection of constitutional rights of citizens. Given the legal force of the final decisions of the constitutional review body, which is superior to any law, except the Constitution itself, the legal positions of the Constitutional Court orient the law-making bodies to implement purposeful and consistent implementation of constitutional norms and reflect constitutional values in the legislation (Duishonbaeva *et al.*, 2021).

The Constitution as the Basic Law of the Kyrgyz Republic (2021) has supreme legal force, and the norms of the Constitution, which are applied throughout the territory of the Republic, have direct effect. All legal acts must comply with the norms and basic principles of the Constitution and must not contradict it. In addition, all officials of state administration and local self-government bodies must steadfastly comply with the Constitution. In the Kyrgyz Republic, the Constitutional Court is a special body of judicial power that is authorised to ensure the constitutionality of laws in the state. There are two varieties of the American model of constitutional review – decentralised and centralised. The decentralised model exists in such countries as the USA, Argentina, Norway and Japan, where constitutional control can be exercised by all courts of general jurisdiction in the ordinary course of judicial procedure. The centralised variety exists in such countries as Australia, India, Canada, Malta, where constitutional review can be exercised only by supreme courts in a special order of procedure.

The European model of constitutional control, the concept of which was proposed by Austrian scholars G. Kelsen and K. Eisenman, emerged in the 20th century. The main difference between the European model and the American one is that constitutional control is separated from general justice and is carried out not by courts of general jurisdiction, but by specialised bodies – constitutional courts (Ghaleigh *et al.*, 2022). The model of constitutional control in the Kyrgyz Republic refers to the Kelsen or European model of constitutional justice, as there is a separate body of constitutional control, which is authorised to supervise and control the constitutionality of legislative norms.

The Constitutional Court not only protects the Constitution but also limits public authorities within constitutionally defined boundaries through competence disputes (Dube, 2022). However, in disputes between public authorities, it rules solely on legal issues without addressing political expediency. As an arbitrator in representative democracy, the Court prevents power abuse and upholds democracy based on the rule of law. Its activities are transparent, with an Annual Report detailing adopted acts, petitions, executed decisions, and statistical data (Scholtes, 2021). The legal status of the Constitutional Court raises questions about whether it functions as a judicial or procedural body. Justice is viewed as law enforcement, while legal proceedings ensure its implementation, with distinctions across constitutional, civil, economic, administrative, and criminal cases (Lenaerts *et al.*, 2021). To clarify this, it is essential to examine the historical evolution of the Constitutional Court in Kyrgyzstan. The constitutional development of Kyrgyzstan has undergone multiple transformations due to political and social changes, affecting the status of constitutional justice bodies. The evolutionary stages of the Constitutional Court are summarised in Table 1.

According to Article 97 of the Constitution of the Kyrgyz Republic (2021), the Constitutional Court is the supreme judicial body responsible for constitutional control, ensuring the protection of constitutional principles, fundamental rights, and the rule of law. It exercises official constitutional interpretation, reviews the compliance of normative acts with the Constitution, assesses the constitutionality of international treaties before their ratification, and resolves competence disputes between branches of power (Dube, 2022). Additionally, the Court provides opinions on constitutional amendments and the initiation of charges against the President. Under the Constitution, any individual or legal entity may challenge a law or normative act violating fundamental rights. Decisions of the Court are final and not

subject to appeal. Laws or provisions deemed unconstitutional are invalidated nationwide, and judicial decisions based on such laws can be reconsidered upon citizen complaints (Scholtes, 2021). The Court operates strictly within the legal framework, ruling only on the legality of norms, including their content, form, adoption, publication, and enforcement (Lenaerts *et al.*, 2021). The right to appeal to the Constitutional Court extends to individuals, legal entities, state authorities, and key officials, including the President, Parliament, Cabinet of Ministers, Supreme Court, local self-government bodies, the Prosecutor General, and the Ombudsman (Awawda, 2024). Appeals must comply with formal requirements outlined in Constitutional Law No. 133, including details of the petitioner, references to constitutional norms, and a legal justification for the claim (Makhambetsaliyev *et al.*, 2024). The constitutional review process follows defined stages, from registration to consideration in a written procedure for specific cases.

Table 1. Items under which non-current assets are recognised in the balance sheet

Period	The body that administers constitutional justice	Features of the activity
1990-1993	The Constitutional Oversight Committee of the Kyrgyz Soviet Socialist Republic (the predecessor of the Constitutional Court)	1. Low efficiency in the area of protecting citizens' rights. 2. Strong dependence on other government bodies.
1993-2010	Constitutional Court of the Kyrgyz Republic	It was defined as the body of the highest justice, while issues of the status of judges were decided not by the court itself, but by Parliament.
2010-2021	Constitutional Chamber of the Supreme Court of the Kyrgyz Republic	The Constitution defined this body as the body implementing constitutional control. In fact, it was an independent body implementing constitutional proceedings.
2021 – present time	Constitutional Court of the Kyrgyz Republic	It is the body of the highest judicial authority that carries out constitutional proceedings.

Source: compiled by the authors based on Z.Z. Kerimkanova and E.B. Bazarbaev (2024)

Key features of constitutional justice in Kyrgyzstan reflect its evolving legislative landscape and external political influences. The main challenges for further development include (Stone *et al.*, 2023; Yunusov & Leylanoğlu, 2024):

- strengthening the Constitutional Court's independence from political influence.
- defining its jurisdiction within the broader judicial system, particularly with the development of administrative courts.
- refining procedural regulations, including the legal force and enforcement of decisions.
- ensuring political neutrality, as constitutional justice is often influenced by socio-political factors.

As of February 2025, the Constitutional Court of the Kyrgyz Republic has not published its annual reports for 2023 and 2024. The most recent available data pertains to 2022, during which the Court received 68 appeals, accepting 10 (15%) for proceedings. Of these appeals, 85% were filed by citizens, with the remainder submitted by state bodies, legal entities, and judges. The Court issued 10 judgments on these appeals, upholding the constitutionality of the contested normative legal acts in 7 cases and finding contradictions in 3 cases. The high rejection rate (85%) was attributed to insufficient awareness among citizens, legal professionals, and state representatives regarding the application procedures for constitutional review (Annual Report of..., 2022). In October 2023, a significant legislative change occurred when the President signed a law permitting the review of Constitutional Court decisions upon suggestion by either the President or the Chair of the Constitutional Court. This development has raised concerns about potential impacts on judicial independence, as it grants the executive branch influence over the Court's rulings (United Nations in Kyrgyz Republic, 2023).

In this regard, all public authorities, including the Constitutional Court, have an important task to continue raising legal culture and informing citizens about the basics of constitutionalism in various forms, including guest lectures with the participation of lawyers; the establishment of constitutionalism centres in higher education institutions; ongoing constitutionalism schools for various categories of legal scholars (judges, prosecutors, lawyers, legal professionals, lawyers of public organisations and others), state and municipal officials; and the widespread dissemination of information about constitutionalism to the public.

When considering specific decisions of the Constitutional Court, the following decisions and the procedure for their implementation may be noted. Decision of the Constitutional Court of the Kyrgyz Republic "On the Case on Verification of Constitutionality of Part 6 of Article 28 of the Constitutional Law of the Kyrgyz Republic "On the Election of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh of the Kyrgyz Republic" (2022) is such that it does not contradict parts 2, 4, 5 of Article 23, parts 1-3 of Article 32, part 1 of Article 33 of the Constitution, which is considered in Table 2.

This decision was implemented through the adoption of Constitutional Law of the Kyrgyz Republic No. 81 "On Amendments to the Constitutional Law of the Kyrgyz Republic "On the Election of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh of the Kyrgyz Republic" (2023). Another decision of the Constitutional Court of the Kyrgyz Republic is worth considering. The decision of the Constitutional Court of 15 June 2022, Part 13 of Article 121 of the Criminal Procedure Code of the Kyrgyz Republic (2021) was found to be contrary to Article 23, Part 5, Article 61, Part 1, Part 4, Article 100 of the Constitution of the Kyrgyz Republic, which is discussed in detail in Table 3.

Table 2. Decision of the Constitutional Court of April 27, 2022

Contacting parties	The essence of the question	Court decision
Deputies of Zhoroku – Alagushev Akhmat Kirgizbaevich and Sydykov Nurbek Kudaiberdievich	Verification of compliance of part 6 of Article 28 of the Constitutional Law of the Kyrgyz Republic No. 68 with part 2 of Article 10, parts 2, 4, 5 of Article 23, parts 1, 2, 3 of Article 32, part 1 of Article 33 of the Constitution of the Kyrgyz Republic. The applicants believe that the wording used in the contested provision establishes a ban on any negative statements, including constructive criticism, sharp questions and statements regarding the programme chosen by a candidate, analysis of possible consequences in case of choosing the programme of another candidate, dissemination of factual circumstances, information about candidates, political parties of public interest. Consequently, the prohibition established by the contested provision does not fulfil the purposes defined in Article 23 (2), (4) and (5) of the Constitution and does not meet the requirements of clarity and certainty.	Article 28, part 6, of Constitutional Law of the Kyrgyz Republic No. 68 was found not to be contrary to Article 23, parts 2, 4 and 5, Article 32, parts 1-3, and Article 33, part 1, of the Constitution of the Kyrgyz Republic.

Source: compiled by the authors based on Decision of the Constitutional Court of the Kyrgyz Republic "On the Case on Verification of Constitutionality of Part 6 of Article 28 of the Constitutional Law of the Kyrgyz Republic "On the Election of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh of the Kyrgyz Republic" (2022)

Table 3. Decision of the Constitutional Court of June 15, 2022

Contacting parties	The essence of the question	Court decision
Deputies Zhoroku – Omurkul uulu Ulan, Turganbaev Murat Zhumabaevich	Uncertainty regarding whether part 13 of Article complies with the Constitution of the Kyrgyz Republic 121 Criminal Procedure Code of the Kyrgyz Republic	Part 13 of Article is recognised 121 Criminal Procedure Code of the Kyrgyz Republic contrary to part 5 of Article 23, part 1 of the Article 61, part 4 of Article 100 Constitution of the Kyrgyz Republic

Source: compiled by the authors based on Decision of the Constitutional Court of the Kyrgyz Republic "On the Case on Verification of the Constitutionality of Part 13 of Article 121 of the Criminal Procedure Code of the Kyrgyz Republic" (2022)

In this decision, the court noted that the most negative form of manifestation of unlawful activity is the commission of offences that involve the infliction of moral and material harm. In this connection, in every case where a sentence is passed for an offence that has caused material and moral harm, the court must at the same time also consider a civil claim for compensation for the damage caused. If such a claim has not been filed by a party, the court must decide on the issue of compensation for damage on its own initiative. To ensure the implementation of such tasks as a legal mechanism, pre-trial investigation bodies apply measures of procedural coercion, where the most popular is such type as arrest of property. In November 2023, the Constitutional Court reviewed the constitutionality of Articles 218 and 303 of the Labor Code of the Kyrgyz Republic (2004), along with Order of the Government of the Kyrgyz Republic No. 158 (1999), which established a list of industries and professions prohibited for women due to "harmful or hazardous conditions" (Table 4). Equality Now substantiated these provisions as discriminatory. At the same time, it should be noted that decent work is not only a tool for achieving the relevant UN Sustainable Development Goals, but also an effective economic incentive to increase employment (Shubalyi & Yefimov, 2023).

Table 4. Decision of the Constitutional Court of November, 2023

Petitioners	Issue	Court Decision
Equality Now and other human rights organisations	Challenged the legality of restricting women's employment in certain industries, arguing it violated constitutional principles of equality and non-discrimination.	The Court declared the contested provisions unconstitutional, stating they infringed upon women's rights to equal employment opportunities and did not align with international standards. The decision mandated the removal of gender-based restrictions in labor laws.

Source: Equality Now (2023)

In October 2023, President Sadyr Japarov signed amendments to the Law on the Constitutional Court, granting the Court authority to review its prior decisions under specific circumstances (Table 5). These decisions reflect the dynamic nature of constitutional jurisprudence in Kyrgyzstan, addressing both the advancement of gender equality in the workforce and the evolving relationship between the judiciary and executive branches concerning the finality of constitutional interpretations. At the same time, cancellation of such coercive measures may entail a threat of violation of property rights of victims of crime, as unjustified removal of arrest may entail the impossibility to provide compensation for moral damage and payment of other costs. Therefore, in this case, it is very important to ensure effective judicial control and implementation of legal norms that regulate the lifting of arrest over property. The Constitution enshrines the right to judicial protection in the process of pre-trial investigation of a criminal offence by enshrining in criminal procedure legislation the institution of the investigating judge, who is empowered to exercise judicial control. The purpose of this institution is to provide protection against arbitrary actions by representatives of law enforcement agencies. At the same time, the investigating judge cannot decide on the guilt or

innocence of the person under investigation. Judicial control thus acts as an independent function, which is aimed at restoring the violated rights and interests of the injured party at the stage of pre-trial investigation.

Table 5. Decision of the Constitutional Court of October, 2023

Petitioners	Issue	Court Decision
Initiated by the President and the Jogorku Kenesh (Parliament)	Sought to allow the Constitutional Court to revise its decisions if new significant circumstances arise, if constitutional norms have changed, or if a decision contradicts the moral values and social consciousness of the people.	The Court upheld the amendments, enabling the review of previous decisions under the specified conditions. This move has been controversial, with concerns about potential impacts on judicial independence and the possibility of executive overreach.

Source: Decisions of Constitutional Court can be reviewed in Kyrgyzstan (2023)

Despite the exercise of judicial control over the cancellation of an arrest under Article 130, part 1, of the Criminal Procedure Code of the Kyrgyz Republic (2021), the possibility of influencing a court decision is also envisaged, which is inconsistent with the constitutional principles enshrined in the Basic Law, the structure of the organs of State power and the place of the judiciary in it. Article 100, part 4, of the Constitution of the Kyrgyz Republic (2021) provides that "Cancellation, modification or suspension of a court judgement shall be carried out by the court in accordance with the procedure established by law". This means that no public authority may perform the function of a court, and no court decision may be cancelled or suspended, which also applies to the question of cancelling the seizure of property, by other public authorities or officials than a court. Therefore, the Constitutional Court noted that it was necessary to introduce legislative changes in the legal regulation concerning the procedure for cancelling the seizure of property. This judgement was implemented through the adoption of the Law of the Kyrgyz Republic No. 149 "On Amendments to the Criminal Procedure Code of the Kyrgyz Republic" (2023).

An example of a review of a decision of the Constitutional Court is the decision to review the Decision of the Constitutional Court "On the Case of Tilek kyzy Elvira and Ainura Musaevna Osmonalieva, Representing the Interests of Altyn Abtyn Kapalova interests of Kapalova Altyn Abdykadyrovna" (2023) concerning verification of the constitutionality of a normative provision of Article 63, part 2, of the Family Code of the Kyrgyz Republic (2003). On 30 June 2023, the Constitutional Court of the Kyrgyz Republic, having considered the case concerning the constitutionality of certain normative provisions of Article 63, part 2, of the Family Code of the Kyrgyz Republic and Article 30, part 3, second paragraph of part 3, of the Act on Civil Status Acts, found the contested norms not to be contrary to the Constitution. At the same time, the Cabinet of Ministers of the Kyrgyz Republic was instructed to amend the current legal regulation aimed at granting a legally capable citizen 3 the right to choose between a patronymic and a matronymic. However, this position of the court caused a wide public resonance due to the perception of the predominant part of the population of the institution of matricide 4 in general as a negative phenomenon that infringes on the moral foundations, values, and traditions of the Kyrgyz people. Taking into account the circumstances, the Chairman of the Constitutional Court, E.J. Oskonbaev, on 11 October 2023, made a submission to the Constitutional Court for review of the decision of 30 June 2023 in the part concerning the institution of matronym. The said submission noted that the Constitutional Court, by identifying the constitutional and legal meaning of the provisions of the Constitution and resolving issues of uncertainty in their understanding, forms the unity of the legal space, thus ensuring the stability of legal relations, which includes maintaining a reasonable balance between private and public interests. Taking into account the above, as well as taking into account the realities in which the introduction of the institution of matricide was perceived negatively by the overwhelming part of society, which was a circumstance that could not have been foreseen, at the same time, without questioning the conclusions set out in the adopted Decision, in order to comply with the principle of balance in the law enforcement activities of state institutions for the protection of public and private legal interests, the Constitutional Court concludes that it is necessary to make changes to the legislation under consideration.

The use of different dialogue platforms to discuss draft legislation is also effective. The Constitutional Court, in order to strengthen citizens' confidence in the laws and the judiciary, is actively interpreting and explaining legal norms in an understandable way. A very important aspect is that all state bodies and their officials take all measures for the proper implementation of the decisions of the Constitutional Court, which indicates the sufficient authority of this judicial authority.

Discussion

The current study found that the Constitutional Court is the central democratic body in developed democracies and is considered the highest guarantee of the rule of law. However, the paper found that in practice, Constitutional Courts can often be highly politicised and make biased decisions. The study by P. Castillo-Ortiz (2020) established the fact that not always the existing structure of constitutional proceedings can fulfil the requirements of a democratic state. The author concludes that reforms of constitutional courts are needed to ensure their independence and efficiency. The conclusions of this study coincide with the opinion of the mentioned author that in practice the Constitutional Court is dependent on other branches of power and systemic changes are necessary to ensure the independence of constitutional control bodies.

The scientific study has studied in detail the problematics of judicial power, which is expressed in the fact that the Constitutional Court often makes politicised decisions, which are not aimed at the real protection of democratic statutes in the state, attention was focused on the peculiarities of the implementation of justice, including constitutional justice. The study revealed, as in previous studies, that the decisions of the Constitutional Court have an important political and social impact, because, it is such decisions that

are designed to regulate different social relations in order to ensure the fundamental rights of citizens.

The author B.G. Engst (2021) also found that the work of courts of different jurisdictions, including the Constitutional Court, is greatly influenced by political forces, but, despite this, constitutional control is an integral attribute of democratic power. The results of the research coincide with the author's opinion in the part that the same problems of the judicial system have been established, which is characteristic for the majority of democratic countries, and which is expressed in the great influence of different branches of power on the judicial system.

In the current study, it was established that the institute of constitutional litigation is actively developing in the Kyrgyz Republic. Despite all the shortcomings, constitutional appeal is an effective mechanism for the implementation of constitutional control (Apakhayev *et al.*, 2024). In the scientific work of the authors A.J. Bellia and B.R. Clark (2022), as well as in this study, theoretical and practical aspects of the functioning of the Constitutional Court in different democratic countries were studied. The work of these authors investigates the procedure of constitutional litigation in European countries, in particular Germany, which distinguishes this work from the current study.

Different models of constitutional litigation have been studied in the work. Taking into account the conclusions of the author M. Steuer (2023), it is worth noting that often the concept of constitutional justice is used as a tool of populism. Unlike the above author, this paper has studied in detail the procedure of constitutional justice and formulated some conclusions that the principles and rights enshrined in the Basic Law are not always realised in practice. The use of such an approach does not develop democracy, but rather leads to the establishment of authoritarianism under the pretext of democratic statutes. That is why the Constitutional Court, as the supreme body of justice and a guarantee of the Constitution, should be as independent of political and managerial influence as possible (Saparbekova *et al.*, 2024).

In the process of researching this topic, the role of the Constitutional Court in the justice system and in the mechanism of ensuring fundamental human and civil rights was established. The study revealed the fact that the activity of the Constitutional Court is an indispensable component of any democratic model of governance. Therefore, constitutional control bodies should be singled out and exercise their functions independently of political influence, directly fulfilling the prescriptions of the Constitution. The results of the study coincide with the opinion of the author M. Granat (2022), who also in his scientific work indicates that the powers of constitutional bodies should be highlighted and regulated in detail at the legislative level.

In the scientific study, as well as in the work of the author D. Nazarova (2021), the main stages of development of constitutionalism in the Kyrgyz Republic were established. The peculiarities of the development of constitutional control bodies, its weaknesses and strengths were studied, taking into account the historical development of Kyrgyzstan in the post-Soviet period. This paper found that, compared to other post-Soviet countries, the development of the Constitution and constitutional jurisdiction in Kyrgyzstan was very rapid and dynamic. Despite some shortcomings, constitutional control in the Kyrgyz Republic is quite effective for the protection of fundamental rights of citizens (Kovalchuk *et al.*, 2024).

Agreeing with the position of the authors A. Elcaputera and S. Satoto (2023), who conducted an analysis of the activities of Constitutional Courts in various countries, including Kyrgyzstan, the study established that the judicial practice of the Constitutional Court indeed plays an important role in strengthening democracy and ensuring fundamental human and civil rights. It was determined that in a short period of time, constitutional jurisprudence can change the course of legislation formation and can influence managerial decisions of state authorities. In this paper, considerable attention has been paid to the realisation of fundamental rights in various spheres, in particular, the exercise of citizens' rights. Since the Constitution of the Kyrgyz Republic enshrines the equality of rights between women and men, an analysis was made of how women's rights and interests are actually protected. Particular attention was paid to the process of integrating gender issues into Kyrgyz legislation. The analysis looked at how gender equality is protected at the constitutional and customary legal levels, and attempted to assess how effective the constitutional framework is in realising the protection of women's rights, taking into account women's socio-economic, political and other contexts. A. Akisheva (2023) explored the issue of gender equality in constitutional politics in more detail. The author concludes that the Constitutional Court is the body that should primarily ensure gender equality in law-making, which distinguishes the study of the mentioned author from the current work.

The research paper established the basic standards of constitutionalism. Also, it was established that all decisions of the Constitutional Court on legislative changes should be made through thorough and effective processes that can ensure consensus between the society and the state. The same research was conducted by Venice Commission (2021) which also studied the provisions of the Venice Commission, some positive, and negative aspects of constitutional amendments were studied.

This study once again shows the importance of adhering to constitutional rights in all public spheres of citizens' life. Since, sometimes, some areas receive very little attention, this is often where violations occur. This paper studies the legal basis for the implementation of justice and the specifics of both administrative and constitutional jurisdiction in the development of the Kyrgyz Republic. Authors Z.Z. Kerimkanova and E.B. Bazarbaev (2024), in their work, also established some peculiarities of realisation of fundamental rights of citizens in narrower spheres, such as, for example, in the construction sphere. Therefore, as in the current study, the authors also conclude that constitutional litigation on the one hand has its own procedural limitations, and on the other hand covers all branches of law.

M. Safta (2022) emphasises that constitutional courts play a pivotal role in maintaining peace and public order by ensuring that legal norms align with constitutional values. The current study corroborates this argument, demonstrating how the Kyrgyz Constitutional Court has worked towards strengthening the legal framework by reviewing controversial legislative provisions. Similar to the cases analysed by M. Safta (2022), the Kyrgyz Constitutional Court has influenced legislative amendments, as seen in decisions regarding property rights and electoral regulations. Ahmad *et al.* (2022) discusses constitutional dialogue as a crucial aspect of judicial review, particularly in Indonesia. Their findings suggest that constitutional courts should actively engage with legis-

lative bodies to refine legal norms. The present study aligns with this perspective, showing that the Kyrgyz Constitutional Court not only adjudicates disputes but also provides recommendations for legislative improvements. This reflects an emerging trend where constitutional courts act as facilitators of legal dialogue rather than mere adjudicators. The comparison with European constitutional courts, as analysed by M. Florczak-Wątor (2020), indicates that judicial law-making is a significant function of constitutional courts in democratic states. The Kyrgyz Constitutional Court, much like its European counterparts, has exercised judicial law-making through its rulings on the constitutionality of laws. However, unlike well-established European constitutional courts, the Kyrgyz court operates within a legal and political environment where judicial independence remains a challenge, as evidenced by recent executive attempts to influence constitutional adjudication (Serikzhanova *et al.*, 2024).

T. Lailam and M.L. Chakim (2023) propose the adoption of concrete judicial review in Indonesia, drawing insights from the German Federal Constitutional Court. The Kyrgyz Constitutional Court follows a similar model of centralised constitutional review, in line with the Kelsenian tradition. However, the discretionary power granted to the Court in Kyrgyzstan is still evolving. Unlike the German model, where judicial independence is firmly entrenched, the Kyrgyz model faces external pressures, as observed in the case of revisiting prior court decisions under executive influence. The study by C. Grabenwarter *et al.* (2021) examines the role of constitutional courts within the European judicial network, highlighting their interactions with supranational legal institutions. While the Kyrgyz Constitutional Court operates in a domestic legal framework, its decisions increasingly reflect international legal standards, particularly in human rights protection (Kryvytskyi, 2024). The Court's decision on gender equality in employment aligns with global legal principles, similar to trends in European constitutional courts. A. Wijaya and N. Nasran (2021) provide a comparative analysis of judicial review models, underscoring the distinction between centralised and decentralised systems. The Kyrgyz Constitutional Court, following the European model, exercises centralised constitutional review, akin to courts in Austria and Germany (Mazur & Korolchiuk, 2024). However, challenges such as political interference and the lack of comprehensive public legal awareness hinder its full effectiveness.

In conclusion, the findings of this study demonstrate that the Constitutional Court of the Kyrgyz Republic plays an essential role in upholding constitutional supremacy and legal stability. However, issues such as judicial independence, legislative coherence, and the influence of political factors remain critical challenges. Comparative insights from other jurisdictions suggest that enhancing constitutional dialogue, fortifying judicial independence, and ensuring broader legal awareness among the population are necessary steps for strengthening constitutional justice in Kyrgyzstan. Future research should focus on assessing the long-term impact of constitutional court decisions on legislative development and public trust in the judiciary.

Conclusions

The findings of this study highlight the fundamental role of the Constitutional Court of the Kyrgyz Republic in protecting human rights, ensuring the supremacy of the Constitution, and maintaining legal stability. The study assessed the Court's effectiveness by analysing the number of human rights-related cases reviewed, tracking trends over time, and determining whether an increase in such rulings has contributed to stronger human rights protection in the Republic. The research confirms that while the Court has issued landmark decisions on gender equality, labour rights, and constitutional amendments, challenges remain in guaranteeing judicial independence and enforcing court rulings effectively.

The analysis of constitutional litigation in Kyrgyzstan demonstrates a growing reliance on the Court for resolving fundamental rights disputes, as reflected in the increasing number of constitutional complaints. However, despite this trend, procedural limitations, political influences, and the absence of a robust enforcement mechanism hinder the full implementation of judicial decisions. The study also examined the Court's evolving role in the system of state power, revealing its complex relationship with legislative and executive institutions. Although the Court acts as a constitutional safeguard, the legal framework governing its jurisdiction and authority requires further refinement to strengthen its position in protecting democratic principles.

To enhance the Constitutional Court's effectiveness in human rights protection, several key measures are necessary. First, refining procedural regulations and strengthening enforcement mechanisms would improve the implementation of rulings. Second, increasing access to constitutional review through legal awareness campaigns and public engagement would help citizens exercise their rights more effectively. Third, ensuring greater transparency in judicial processes and decision-making would reinforce public trust in constitutional justice. Future research should explore comparative models of constitutional courts in other jurisdictions to identify best practices that could be adapted to the Kyrgyz context. Additionally, an in-depth examination of the long-term impact of judicial decisions on legislative reforms and government policies would provide valuable insights into the Court's influence on legal and institutional development. Strengthening judicial independence and promoting constitutional literacy remain critical priorities for ensuring that the Constitutional Court continues to serve as a cornerstone of democracy and human rights in Kyrgyzstan.

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Conflict of interest

None.

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Роль конституційного судочинства в захисті фундаментальних прав людини: оцінка діяльності Конституційного суду Киргизької Республіки

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Анотація. Дослідження ефективності Конституційного Суду щодо захисту прав людини в Киргизькій Республіці є особливо актуальним у зв'язку з триваючими правовими реформами та збільшенням кількості конституційних скарг. Дослідження мало на меті оцінити роль Суду у забезпеченні конституційних прав шляхом аналізу тенденцій розгляду справ з 2022 по 2024 роки. У дослідженні використано формально-правовий, порівняльно-правовий, історико-правовий, логіко-правовий та методи юридичної конкретизації для вивчення судових рішень, правової бази та взаємодії Конституційного Суду з державними органами. Аналіз судової практики показав, що хоча Конституційний Суд відіграє вирішальну роль у дотриманні конституційних принципів, залишаються проблеми щодо його незалежності, доступності та виконання рішень. Було встановлено, що кількість звернень, пов'язаних із порушенням прав людини, зросла, але рівень прийняття до провадження залишається низьким, що підкреслює процесуальні перешкоди для конституційного правосуддя. Дослідження розглядало ключові справи щодо гендерної рівності, трудових прав і виборчого законодавства, демонструючи вплив Суду на правовий ландшафт. Порівняльний аналіз із Казахстаном та Узбекистаном виявив спільні регіональні тенденції, зокрема політичні фактори, що впливають на конституційне судочинство. Крім того, дослідження виявило потребу в більш чіткій законодавчій базі та інституційних реформах для посилення ефективності Суду у захисті прав людини. Результати можуть бути використані для розробки стратегій для посилення незалежності судової влади, удосконалення процедур конституційного судочинства та забезпечення кращого захисту прав людини в рамках правової системи Киргизької Республіки

Ключові слова: правовий захист; судова скарга; верховенство права; правовий контроль; основоположні права та інтереси громадян

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Ways to improve legal regulation of critical infrastructure information networks protection

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Abstract. The study aimed to identify ways to improve the legal regulation of the protection of information networks of Ukraine's critical infrastructure, taking into account contemporary challenges in cybersecurity and international standards. The research employed a comparative analysis of the legislation of Ukraine, the EU, the USA, and the United Kingdom governing cybersecurity in critical infrastructure. Additionally, it assesses the effectiveness of existing legal and regulatory frameworks in the context of modern threats, particularly armed conflict. The analysis revealed the fragmented nature of the current legislation, the lack of an effective coordination mechanism among state authorities, and insufficient legal instruments for regulating liability for cybercrimes targeting critical infrastructure. It was established that Ukraine's regulatory framework only partially complies with international standards, complicating its harmonisation with EU requirements. The insufficient integration of the public and private sectors in the field of cybersecurity is also a significant factor limiting the effectiveness of protecting strategic digital assets. To enhance the efficiency of legal regulation, comprehensive harmonisation of Ukraine's legislation with EU norms is necessary, particularly with the NIS 2 Directive, which establishes unified requirements for the protection of critical infrastructure. The introduction of mandatory certification of cybersecurity measures and the expansion of criminal liability for cyberattacks on critical infrastructure, including sanctions for legal entities, are advisable. A crucial direction is the legislative establishment of a unified national cyber threat monitoring system and the improvement of mechanisms for public-private partnerships. The proposed changes will contribute to strengthening the cyber resilience of Ukraine's critical infrastructure, ensuring its compliance with international standards, and facilitating its integration into the global cybersecurity system

Keywords: cyber resilience; digital space; strategic objects; cyber threats; national security

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Introduction

In the contemporary digital era, cyber threats to vital infrastructure have evolved into a global concern that transcends national boundaries. Advanced cyberattacks aimed at energy, transportation, communication, and healthcare systems represent a mounting threat to governments, businesses, and critical service providers worldwide. These vulnerabilities underscore the pressing need for comprehensive cybersecurity strategies that encompass organisational, legal, and technological safeguards. The accelerated integration of digital technologies and the interconnection of global economies have elevated the protection of critical infrastructure to a paramount concern in national security strategies across diverse geographical regions.

To address the challenges posed by contemporary cybersecurity, a multifaceted approach encompassing organisational, legal, and cyber-physical methodologies is imperative. Recent research contributions offer significant insights into the evolution of cybersecurity. In particular, Ü. Cali *et al.* (2023) emphasise the need to integrate physical and cyber security measures to enhance the resilience of digital water infrastructure against cyber threats, and A. Semenchenko *et al.* (2020) highlight the necessity of comprehensive cyber-physical solutions to mitigate the impact of cyberattacks on critical utilities. The authors draw attention to the legal system's fragmentation and the necessity of governmental entities working together more closely. The growth of cybersecurity regulations inside the European Union is also examined by G.G. Fuster and L. Jasmontaite (2020), who emphasise the significance of striking a balance between security concerns and basic rights. The authors contend that a unified strategy including several domains, such as critical infrastructure protection and electronic communications, is necessary for efficient cybersecurity governance.

R. Kelemen (2023) has conducted an in-depth analysis of the repercussions of the Russian-Ukrainian war on European cybersecurity policies, with a particular focus on the impact of hybrid warfare on cybersecurity strategies. The study asserts the necessity for a paradigm shift towards integrated cybersecurity frameworks that encompass both cognitive and digital security measures. Additionally, I. Shopina *et al.* (2020) have undertaken a comparative analysis of the organisational and legislative cybersecurity strategies employed by the EU, NATO, and leading nations. In order to enhance resilience against cyber threats, their analysis underscores the imperative for Ukraine to integrate its cybersecurity framework with international norms.

H. Zhang *et al.* (2024) examine the function of Continuous Auditing (CA) in the War Potential Network (WPN), a pivotal infrastructure architecture impacting national security. The study underscores the challenges in ensuring compliance with privacy laws and national security regulations, emphasising the need for advanced auditing techniques such as Locality-Sensitive Hashing (LSH). The research provides novel insights on defending vital infrastructures from cyberattacks while upholding moral and legal principles through the integration of compliance-enhancing technologies. In a related study, D. Markopoulou and V. Papakonstantinou (2021) examine the evolution of critical infrastructure protection, with a particular focus on the EU. In order to detect legislative gaps that affect cybersecurity measures, their research distinguishes between critical infrastructures and critical information infrastructures. They illustrate how the growing frequency of cyber events calls for enhanced regulatory frameworks and sector-specific protective mechanisms in order to adjust to the digital age, using the healthcare industry as a case study.

Despite numerous papers, a number of elements of the problem under study require more detailed analysis. The issues of assessing the vulnerabilities of information networks of critical state resources of Ukraine, the effectiveness of existing mechanisms for their protection, the formation of innovative methodologies for ensuring cyber resilience of critical objects, and considering the features of hybrid threats, require further investigation.

The purpose of the study was to examine ways to improve the legal regulation of critical infrastructure information network protection. The following tasks were set:

1) analyse modern approaches to the legal regulation of critical infrastructure protection and categorisation of critical infrastructure objects.

2) investigate the effectiveness of existing cybersecurity frameworks and policies in protecting critical infrastructure information networks.

3) develop proposals for improving regulatory frameworks to enhance the security of information networks in Ukraine.

Materials and methods

The research methodology provided an interdisciplinary approach that combined a variety of scientific research methods and a wide range of data. A comprehensive analysis of information networks of strategically important objects as a complex system functioning in the face of external threats was conducted. This allowed identifying the relationships between different components of the system and assessing the impact of various factors on its vulnerability and sustainability. The comparative legal method was used to compare regulatory legal acts and practices of critical infrastructure protection in Ukraine and other countries, in particular, the United States (Cybersecurity and Infrastructure..., 2018), Great Britain (the Network and..., 2018), and Germany (Act on the..., 2009). This helped to identify common features and differences in approaches to regulating and protecting critical infrastructure and evaluate the effectiveness of diverse cybersecurity models. Chronological analysis was used to track the transformation of approaches to protecting strategically important objects and analyse previous cyber incidents related to attacks on critical infrastructure. This contributed to the examination of cyberattack methods and appropriate defence mechanisms. Analytical materials of international organisations (Cloud consciousness: Industry..., 2015) and the NotPetya cyberattack in 2017 (The history of..., 2018) were used to assess the consequences of large-scale cyber incidents and identify weaknesses in existing security measures.

The research materials were regulatory legal acts of Ukraine in the field of cybersecurity and critical infrastructure protection, in particular, Law of Ukraine No. 2163-VIII "On the Basic Principles of Ensuring Cybersecurity of Ukraine" (2017), Law of Ukraine 1882-IX "On Critical Infrastructure" (2023), Cybersecurity Strategy of Ukraine (Decree of the..., 2021), National Security Strategy of Ukraine (Decree of the..., 2020), Resolution of the Cabinet of Ministers of Ukraine No. 518-2019-p "On Approval of the General

Requirements for Cyber Defence of Critical Infrastructure Objects" (2019), Criminal Code of Ukraine (2001), in particular, articles related to cybercrime.

Results

Analysis of the state of protection of information networks of critical infrastructure of Ukraine in 2014-2024. The key document in this area is the Law of Ukraine No. 2163-VIII "On the Basic Principles of Ensuring Cybersecurity of Ukraine" (2017). This Regulatory Act outlines the legal and structural principles for ensuring the key needs of an individual and society, community, and country in a digital environment. However, experts note that the existing regulatory framework needs further improvement, in particular, against the background of rapid progress in innovation and new challenges associated with military aggression. P. Anakhov *et al.* (2023) posit that Ukraine's current cybersecurity legislation is inadequate in addressing the escalating complexity of cyber threats within the context of armed conflict, underscoring the necessity for a comprehensive overhaul of regulatory mechanisms. In a similar vein, A. Davydiuk and V. Zubok (2023) emphasise that while legal frameworks provide a foundation for cybersecurity, their practical implementation remains inconsistent due to inadequate coordination between state agencies. In a similar vein, R. Chernysh *et al.* (2023) underscore the pressing need to align Ukraine's cybersecurity strategies with international standards to bolster resilience against state-sponsored cyber threats.

The institutional structure of ensuring cybersecurity in Ukraine includes a number of state bodies. Their activities are coordinated by the National Cybersecurity Coordination Centre under the National Security and Defence Council of Ukraine (NSDC) (Decree of the President of Ukraine No. 242/2016, 2016). However, the effectiveness of interaction between these structures often faces challenges related to the distribution of powers, which can negatively affect the speed of response to cyber threats. Technical means of critical infrastructure information networks preventive measures demonstrate a heterogeneous level of development. Some sectors, such as banking and energy, have relatively advanced cyber defence systems. However, many critical infrastructure facilities, especially in the regions, still use outdated technologies and software, making them vulnerable to modern cyber threats (The history of..., 2018). The situation is compounded by limited funding and a shortage of cybersecurity professionals, especially in the public sector.

Regarding cybersecurity strategies of Ukraine, The Decree of the President of Ukraine No. 447/2021 "On the Decision of the National Security and Defence Council of Ukraine of 14 May 2021 "On the Cybersecurity Strategy of Ukraine" (2021) defines key priorities in the field of cyber defence, including the development of the national cybersecurity system, strengthening the capabilities of security and defence sector entities to effectively counter cyber threats, and ensuring the cyber resilience of critical infrastructure. An important aspect of the strategy is the focus on the development of public-private partnership and international cooperation in the field of cybersecurity. The document also provides for the creation of a system of training personnel in the field of cybersecurity, which is critical to overcoming the shortage of qualified specialists in this field. The cybersecurity strategy of Ukraine defines critical priorities in the field of cyber defence, including the development of a national cybersecurity system, strengthening the capabilities of security and defence sector entities to effectively counter cyber threats, as well as ensuring the cyber resilience of critical infrastructure (Shahini *et al.*, 2024). The document provides for the creation of a system of training personnel in the field of cybersecurity and focuses on the development of public-private partnership and international cooperation. These provisions of the strategy correspond to the needs identified in the course of the study to strengthen the protection of information networks of critical infrastructure in Ukraine.

In the field of public-private partnership, Ukraine is substantially inferior to the advanced states of the world. In the United States, the Critical Infrastructure Partnership Advisory Council (2023) programme operates, which ensures effective interaction between the government apparatus and entrepreneurship in the field of critical infrastructure preventive measures. In Ukraine, such mechanisms are just beginning to take shape, which limits the opportunities for information exchange and coordination between public authorities and private operators of critical infrastructure. Regarding the standardisation and certification of preventive measures systems, Ukraine is in the process of adapting international standards, such as the International Organisation for Standardisation (ISO) and the National Institute of Standards and Technology (NIST). However, the level of implementation of these standards at critical infrastructure facilities remains insufficient. According to the State Service for Special Communications and Information Protection of Ukraine, only about 30% of critical infrastructure facilities fully comply with international cybersecurity standards, which is substantially lower than the levels of EU states and the US (Key Consequences of..., 2022).

The issue of personnel support requires exceptional focus. There is an acute shortage of cybersecurity specialists in Ukraine, especially in the public sector. The need for such specialists is met only by 50-60%. For comparison, in the EU countries, this figure is 80-85%. This creates substantial security risks for critical infrastructure, especially in the context of steadily expanding the scope and complicating cyber-attacks. Analysing the regulatory support for the preservation of information networks of critical infrastructure in Ukraine, it is worth paying attention to its evolution and compliance with modern challenges. The Law of Ukraine No. 1882-IX "On Critical Infrastructure" (2023) was an important step in the formation of an integrated approach to the protection of critical objects. However, the comparative legal analysis indicates the need to continue coordinating national legal norms with EU norms, in particular, with the Directive of the European Parliament and the Council No. 2016/1148 "Concerning Measures for a High Common Level of Security of Network and Information Systems Across the Union" (2016).

From the standpoint of the legal consequences of cyber-attacks on critical infrastructure facilities, Ukrainian legislation shows certain gaps (Yefimenko *et al.*, 2023b). Article 361 of the Criminal Code of Ukraine (2001) provides for liability for obstructing the operation of computers, digital complexes, and information infrastructures. However, this rule does not cover the full range of modern cyber threats, such as attacks on industrial Incident Command Systems (ICS) or distributed denial-of-service attacks, which are often used against critical infrastructure objects.

In terms of organisational support, the creation of the national cybersecurity coordination centre under the National Security and Defence Council of Ukraine was an advanced step in coordinating the efforts of various departments (Decree of the President of Ukraine No. 242/2016, 2016). However, the analysis of its activities indicates the need to expand the powers and resources provided for the effective performance of the tasks assigned to it. In particular, the issue of creating a unified system for monitoring, recognising and countering digital violations, similar to the United States Computer Emergency Readiness Team in the United States or the Computer Emergency Response Team in the EU, remains relevant. Regarding the regulation of the protection of information networks of critical infrastructure in Ukraine, special attention should be paid to the implementation of international standards and norms. In particular, the Law of Ukraine No. 2163-VIII "On the Basic Principles of Ensuring Cybersecurity of Ukraine" (2017) provides for the application of international ISO standards and other standards on information and cybersecurity. However, the analysis of the regulatory framework indicates a lack of detail in the mechanisms for implementing these standards and clear criteria for assessing their compliance.

The key issue is the regulatory regulation of the cross-border exchange of information about cyber incidents. Ukraine is a participant in the Convention on Cybercrime, which creates the legal basis for global cooperation in this area (Law of Ukraine 2824-IV, 2005). However, the practical implementation of the provisions of the convention faces a number of problems, in particular, regarding the speed of data exchange and their admissibility as evidence in court proceedings. From the standpoint of administrative and legal regulation, the role of Resolution of the Cabinet of Ministers of Ukraine No. 518-2019-p "On Approval of the General Requirements for Cyber Defence of Critical Infrastructure Objects" (2019) is notable. This Regulatory Act sets basic requirements for threat prevention systems, but expert analysis indicates the need for its further detailing and adaptation to the specific features of various sectors of critical infrastructure.

According to the analytical report of the National Coordination Centre for Cybersecurity, in 2023-2024 there is a substantial increase in the number and complexity of cyber-attacks on critical infrastructure facilities in Ukraine (Critical Infrastructure Partnership, 2023). For an integrated assessment of the existing security mechanisms of information networks of critical infrastructure of Ukraine, a detailed analysis of key aspects was conducted. The analysis identified substantial discrepancies between the current state of Ukraine and international standards, especially in terms of technical support and investment. Only 30% of critical infrastructure facilities in Ukraine fully meet international standards, compared to 80-90% in the EU countries. In addition, investment in cybersecurity in Ukraine accounts for only 0.1% of the gross domestic product (GDP), while in NATO countries this figure reaches 0.3-0.5%. These data highlight the urgent need for an integrated approach to improving the threat prevention system of Ukraine's critical infrastructure, with a special focus on technical modernisation, human resources development, and strengthening international cooperation (Davydiuk & Potii, 2024). Regarding the confidentiality of personal information processed in the information systems of critical infrastructure facilities, Ukrainian legislation demonstrates a certain non-compliance with the requirements of the EU General Data Protection Regulation. In particular, the Law of Ukraine No. 2297-VI "On Personal Data Protection" (2010) does not contain provisions on mandatory notification of data leaks that are critical for critical infrastructure facilities.

Identification of key vulnerabilities and threats in conflict situations. In the sphere of analysing the crucial vulnerabilities and dangers of information networks of critical infrastructure of Ukraine in the context of conflict, it is worth considering the issue from different angles, covering both legal and technical aspects of the problem. From a legal standpoint, the issue of qualifying cyber-attacks on critical infrastructure facilities in an armed conflict requires priority consideration. In the light of the provisions of international humanitarian law, in particular, the Protocol Additional to the Geneva Conventions of 12 August 1949, and related to the Protection of Victims of International Armed Conflicts (Protocol I) (1977), attacks on objects necessary for the survival of the civilian population are prohibited. However, the specifics of cyber-attacks create certain difficulties in applying these rules since it is often difficult to establish a direct link between cyber operations and physical consequences.

The analysis of the legislative framework of Ukraine reveals certain gaps in the regulation of issues related to the protection of critical infrastructure in a hybrid war. The Law of Ukraine No. 2163-VIII "On the Basic Principles of Ensuring Cybersecurity of Ukraine" (2017), although defines the basic principles of preventing threats to critical information infrastructure, does not contain specific provisions on countering cyber risks in armed conflict. A comparative analysis with the legislation of NATO countries, particularly the United States and Great Britain, demonstrates the need to develop more detailed legal mechanisms for responding to cyber incidents in wartime. A comparative analysis of the legislation of Ukraine with the regulatory legal acts of the United States, Great Britain, and Germany revealed a number of differences in approaches to protecting critical infrastructure. Cybersecurity and Infrastructure Security Agency Act (2018) in the United States provides for the creation of a specialised agency for cybersecurity and infrastructure protection. The Network and Information Systems Regulations (2018) in the UK set strict requirements for operators of basic services regarding reporting on cyber incidents. The Act on the Federal Office for Information Security (BSI Act – BSIG) (2009) in Germany introduces mandatory minimum IT security standards for critical infrastructure operators. These approaches can be used to improve Ukrainian legislation in the field of critical infrastructure protection. From the standpoint of identifying technical vulnerabilities, special attention should be paid to the problem of preventing threats to SCADA systems that are widely used at critical infrastructure facilities. Research conducted by the State Service for Special Communications and Information Threat Prevention of Ukraine has revealed that a substantial part of these systems in Ukraine uses outdated software and has a low level of threat prevention from external interference. In comparison with the practices of the EU countries, where the standard for preventing threats to industrial control systems has been implemented, the level of security of Ukrainian SCADA systems remains insufficient, which creates substantial risks in conditions of active cyber resistance. An analysis of an attempted cyber-attack on Ukrainian water treatment plants in April 2022

revealed critical vulnerabilities in water supply management systems. According to the report of the State Service for Special Communications and Information Protection of Ukraine, the attackers tried to gain unauthorised access to water quality control systems to change its chemical composition (Key Consequences of..., 2022). The incident highlighted the need to strengthen the protection of SCADA systems in the water supply sector, implement multi-level water quality control systems, and conduct regular cybersecurity exercises for critical infrastructure personnel.

In the context of legal assessment of vulnerabilities, the problem of attribution in conflict situations should be substantially emphasised. According to the United Nations Charter (1945), states have the right to self-defence in the event of an armed attack. However, the qualification of a cyberattack as an "armed attack" remains a controversial issue in international law. The Tallinn guide 2.0, in line with international legal standards on cyber activities, suggests treating cyberattacks resulting in substantial destruction or loss of life as the equivalent of an armed attack (Schmitt, 2017). However, this concept has not yet been widely recognised in international practice, which creates legal uncertainty in the context of preventing threats to Ukraine's critical infrastructure.

Cyber-attacks using the NotPetya virus on the financial sector of Ukraine in 2017 revealed large-scale consequences for the country's critical infrastructure. According to the study, the attack affected not only the banking sector but also energy companies, transportation systems and government agencies (The history of..., 2018). It demonstrated the high level of complexity and organisation of cyber threats, emphasising the need to develop comprehensive cyber defence strategies at the national level. In particular, the incident revealed the need to improve data backup systems, implement more stringent cybersecurity protocols, and strengthen cross-industry cooperation in countering cyber threats.

Attacks on satellite communication systems used to manage critical infrastructure facilities pose a particular threat in conflict situations. The KA-SAT incident, which occurred at the start of the aggression against Ukraine, demonstrated the vulnerability of such systems and their critical importance for national security. From a legal standpoint, such attacks can qualify as a violation of the Convention on Cybercrime (2001) and Law of Ukraine 2824-IV "On Rationalisation of the Convention on Cybercrime" (2005), in particular, Article 4, which deals with illegal data interference. However, the effective prosecution of such crimes is complicated by the cross-border nature of attacks and problems with identifying intruders.

Strategies for strengthening the protection of information networks in Ukraine. As part of the development of strategies to strengthen the protection of information networks of critical infrastructure in Ukraine, the implementation of an integrated approach based on the principles of risk-based management and adaptive threat prevention is of paramount importance. According to the Law of Ukraine No. 2163-VIII "On the Basic Principles of Ensuring Cybersecurity of Ukraine" (2017), it is necessary to create and implement a multi-level threat prevention system that will cover organisational, technical, and regulatory aspects. A critical element of such a strategy should be the creation of a national cybersecurity system that will ensure the coordination of actions of all cybersecurity entities and prompt response to cyber incidents.

Technically, the priority area is the introduction of advanced technologies for threat prevention, in particular, new-generation IDS intrusion detection and prevention systems based on systems self-learning technologies and cybernetics. According to the recommendations of the European Union Agency for Cybersecurity, the priority task should be to ensure the safety of automated production complexes ICS and SCADA systems that are widely used in the energy and water supply sectors (Cloud consciousness: Industry..., 2015). The implementation of the standard for preventing threats to industrial control systems should become a mandatory requirement for all critical infrastructure facilities. In the legal field, it is necessary to coordinate Ukrainian legal norms with EU norms, in particular, with the Directive of the European Parliament and of the Council No. 2016/1148 "Concerning Measures for a High Common Level of Security of Network and Information Systems Across the Union" (2016). This will create a single legal space and ensure effective international cooperation in the field of cybersecurity. An important aspect is also the development of public-private partnership mechanisms in the field of preventing threats to critical infrastructure, which will attract additional assets and professional knowledge of the business environment.

Special attention should be paid to the development of human resources in the field of cyber defence. According to the cybersecurity strategy of Ukraine, approved by Decree of the President of Ukraine No. 447/2021 "On the Decision of the National Security and Defence Council of Ukraine of 14 May 2021 "On the Cybersecurity Strategy of Ukraine" (2021), it is necessary to create a system for training cybersecurity specialists for the needs of the public sector and critical infrastructure facilities. This includes the development of specialised training programmes, regular trainings on cybersecurity, as well as the creation of a certification system for specialists in accordance with international standards such as ISO/IEC and Certified Information Systems Security Professional. A comprehensive strategy has been developed to systematise and prioritise areas for improving the critical infrastructure threat prevention system in Ukraine. This strategy covers a wide range of activities – from regulatory support to raising staff awareness and considers both technical and organisational aspects of cybersecurity. Special attention is paid to the issues of coordination of Ukrainian legal acts with EU standards, technological modernisation of threat prevention systems, and human resources development. Notably, the implementation of this strategy requires a comprehensive strategy and coordination of efforts of all participants – from public authorities to private operators of critical infrastructure.

Regarding the regulatory support of critical infrastructure, special attention should be paid to the implementation of the provisions of the NIS 2 Directive (2024) in the national legislation of Ukraine. This implementation involves not only the nominal approval of relevant legislative acts but also the creation of effective mechanisms for their implementation. In particular, it is important to create and launch a mechanism for identifying and categorising basic service operators and digital service providers in accordance with the criteria established in the NIS 2 Directive (2024). An important aspect of legal regulation is also the establishment of clear requirements for critical infrastructure operators to implement an Information

Security Management System according to the international ISO standard. Thereby, it is necessary to ensure a differentiated approach to different categories of critical infrastructure objects, considering their specifics and level of criticality. This approach will optimise the cost of ensuring the prevention of threats to the digital space and increase the effectiveness of protective measures.

Special attention should be paid to the issue of critical infrastructure for the dissemination of data on cyber incidents and cyber threats between critical infrastructure operators, government agencies, and international partners. It is necessary to develop and implement regulatory tools that would ensure a balance between the need for rapid exchange of information and the protection of confidential data of business entities. This may include creating secure platforms for sharing information, establishing clear procedures for classifying and depersonalising incident data and defining conditions and restrictions for using such information. It is advisable to consider the possibility of creating specialised judicial institutions or units that would deal with cases related to cybercrime and violations in the field of cybersecurity to strengthen the effectiveness of implementing laws in the field of preventing threats to critical infrastructure. This will allow for a more professional and efficient handling of such cases, considering their technical complexity and specifics.

International cooperation in the protection of critical infrastructure. As part of the globalisation of threats to the digital space and their cross-border nature, global cooperation in preventing threats to critical infrastructure is becoming of paramount importance for Ukraine. According to the Law of Ukraine No. 2163-VIII "On the Basic Principles of Ensuring Cybersecurity of Ukraine" (2017), one of the key principles of ensuring the protection of the digital space is global interaction to strengthen mutual confidence in the field of digital security and develop coordinated strategies to combat network hazards. In this context, Ukraine's participation in international initiatives, such as the Convention on Cybercrime (2001), which creates a legislative framework for global interaction in countering cybercrime, is especially important.

An essential component of transnational cooperation is the coordination of national legislation of Ukraine with EU norms in the field of critical infrastructure protection (Chumachenko & Popel, 2023). In particular, the implementation of the Directive of the European Parliament and of the Council No. 2016/1148 (2016) provisions on measures for a high joint level of security of network and information systems on the territory of the NIS Directive Union is a vital task for Ukraine within the framework of the association agreement with the EU. This harmonisation will create a single legal and technical space for the exchange of information about cyber incidents and joint response to cyber threats. A special role in international cooperation is played by Ukraine's cooperation with NATO in the field of preventing threats to the digital space. According to the annual national programme under the auspices of the NATO-Ukraine Commission, Ukraine actively participates in NATO cyber defence exercises, such as the "Cyber Coalition" and "Locked Shields". This cooperation allows Ukrainian specialists to gain valuable experience and increase their readiness to counter complex cyber-attacks on critical infrastructure facilities. In addition, within the framework of the NATO Digital Space Security Trust Fund for Ukraine, projects are being implemented to modernise critical infrastructure security systems.

At the regional level, Ukraine's cooperation within the framework of the Trimorya initiative, which unites the countries of Central and Eastern Europe (Ukraine becomes a..., 2022), is important. The initiative is developing common approaches to protecting cross-border critical infrastructure, particularly in the energy and transport sectors. Such cooperation is particularly relevant in the context of the integration of the energy systems of Ukraine and the EU, which requires an increased level of cybersecurity to ensure the stability of energy supplies. An important element of cross-border cooperation is Ukraine's participation in global initiatives to secure the digital space, in particular, within the framework of the United Nations. Ukraine, as an active participant in these initiatives, has the opportunity not only to adopt best practices but also to influence the formation of a global cybersecurity policy.

Cooperation with the EU in the field of critical infrastructure security goes beyond just harmonising legislation. An important element is Ukraine's participation in EU platforms and projects, such as Horizon Europe (European Commission, 2021) and the Digital Europe Programme (European Commission, 2022). These programmes provide access to advanced technologies and methodologies for securing critical infrastructure and facilitate the exchange of experience between specialists from different countries. Priority should be given to the opportunities that participation in the European Cybersecurity Competence Centre opens up, which can become a key tool for improving the cyber resilience of Ukrainian critical infrastructure.

Regarding bilateral relations in the field of preventing threats to the digital space, Ukraine actively cooperates with leading countries of the world. In particular, the Memorandum of Understanding between Ukraine and the USA Regarding Collaboration on Ukrainian Energy System Resilience (2021) provides for the dissemination of data on cyber risks, joint exercises, and technical assistance in protecting critical infrastructure. Similar agreements have been signed with the United Kingdom, Canada, Japan, and Australia, which allows creating a multi-layered system of international support in countering cyber risks. Special attention should be paid to the issue of international legal regulation of state responsibility for cyber-attacks on critical infrastructure facilities. In this context, Ukraine supports initiatives to create and implement the norms of a balanced policy of countries in the digital environment, especially within the framework of the United Nations Group of Governmental Experts (2021) on International Information Security. The development of international legal mechanisms for attributing cyber-attacks and bringing violator states to justice is a crucial task for ensuring global prevention of threats to the digital space and ensuring the security of Ukraine's national interests in the context of hybrid aggression.

The results obtained can be used to develop effective strategies for protecting critical infrastructure in Ukraine and improving the state structure of digital protection in the context of ongoing conflict. The implementation of the proposed recommendations will substantially increase the level of security of information networks of critical infrastructure of Ukraine, which will contribute to strengthening national security and resilience of the state in the face of constantly evolving cyber threats.

Discussion

The results of the study indicate a number of important aspects that require detailed discussion. Firstly, the examination of intrusions on the critical infrastructure of Ukraine in 2014-2023 showed a substantial increase in the number and complexity of attacks after the start of a full-scale invasion of the aggressor in 2022. This is consistent with the conclusions of R. Osei-Kyei *et al.* (2023), who noted the increased vulnerability of critical infrastructure to cyber threats in crisis situations. The results also support the observations of R. Cantelmi *et al.* (2021) on the importance of adaptive approaches to protecting information networks in the face of dynamic threats. It is worth noting that the increase in the number of attacks on critical infrastructure was also accompanied by an increase in their technological complexity and target orientation. There is a tendency to use more sophisticated methods of social engineering and targeted attacks on specific critical objects, which requires the formation of innovative methods for identifying and countering such threats.

R. White (2019) examines cybersecurity vulnerabilities in industrial control systems, highlighting sophisticated cyber threats and their impact on state security. Analysing past incidents, R. White (2019) identifies attack patterns and advocates for proactive defence mechanisms. L. Andrew (2020) expands on R. White (2019) work, focusing on power grids and communication networks. L. Andrew (2020) demonstrates how cyberattacks on one component can trigger cascading failures, using empirical evidence from large-scale incidents to emphasise the need for integrated security policies. E.D. Knapp (2024) explores evolving cyber threats and defence strategies, emphasising artificial intelligence and machine learning in threat mitigation. Author argues that traditional security measures are insufficient against adaptive adversaries and highlights recent advancements in cybersecurity technologies and regulations. Aligning with the present study, E.D. Knapp (2024) underscores the necessity of robust cybersecurity measures for Ukraine's critical infrastructure. The interconnectedness of strategically important objects, as noted in the aforementioned works, resonates with the cascading effects observed in Ukraine, where a successful attack on one component often leads to widespread disruptions across multiple sectors. Consequently, the conclusions of the present study corroborate the imperative for a systemic approach to enhance Ukraine's cybersecurity measures through the establishment of advanced legal frameworks and enhanced security protocols.

The challenges associated with the sustainability of urban critical infrastructure and the security of network infrastructure have been examined by K. Pipyros (2019) and O. Ivanenko (2020). Their research highlights the heightened vulnerability of urban infrastructures to cyber threats due to their complexity and concentration of critical assets. The emphasis on the need for comprehensive security strategies that integrate technical, organisational and social dimensions corresponds with the findings of the present study, which identifies weak authentication protocols and outdated cybersecurity measures as key risk factors. In line with their recommendations, this study advocates for the implementation of adaptive protection strategies, incorporating artificial intelligence and advanced anomaly detection mechanisms, to effectively mitigate risks to Ukraine's urban critical infrastructure.

The protection of key state resources in the context of military conflicts and hybrid threats has been explored by C. Pursiainen (2021) and M. Haber (2022). Their studies illustrate the transformation of national security approaches in response to hybrid threats, which combine cyberattacks with physical sabotage and information warfare, a phenomenon which is directly relevant to the current study. The latter focuses on the cybersecurity challenges faced by Ukraine amid ongoing military conflict. The findings of these studies lend support to the argument that traditional security measures are inadequate in the face of hybrid threats, underscoring the necessity for a coordinated strategy that integrates military, cybersecurity, and intelligence capabilities. The present study contributes to this body of knowledge by proposing targeted measures, such as the establishment of sector-specific cybersecurity centres and regular cybersecurity exercises, with the aim of enhancing national resilience against evolving threats.

An analysis of existing systems of protection of communication structures of critical infrastructure of Ukraine has shown that the most effective are integrated approaches that combine technical, organisational, and legal measures. This confirms the findings of D. Rehak *et al.* (2019) on the need for a comprehensive strategy to assess the sustainability of critical infrastructure elements. The study showed that the most successful organisations are those that have implemented a multi-level security system that includes not only modern technical solutions but also regular training of personnel, clear incident response protocols, and an effective risk management system. It was particularly important to implement the principles of "security by design" in the development and modernisation of critical infrastructure management systems, which is consistent with the recommendations of T. Loveček *et al.* (2021) on the use of modelling and simulation to improve the protection of critical infrastructure.

An important nuance identified during the analysis is the need for international cooperation in the field of critical infrastructure protection. This is especially true in the context of cross-border threats that arise in the context of hybrid warfare (Lyndyuk *et al.*, 2023). The results complement the conclusions of L. Newlove-Eriksson *et al.* (2018) on the relationship between the commercialisation of important information infrastructure and national security, emphasising the need for a balance between economic efficiency and security. The analysis showed that countries that actively participate in international initiatives to protect the digital space show a higher level of readiness to counter complex cyber threats. Especially valuable was the exchange of information about new types of attacks and methods of detecting them, which allows for a quick adaptation of security systems to evolving threats. This confirms the importance of Ukraine's participation in such international initiatives, as noted in the study by A.B. Darıcılı and S. Celik (2022).

Comparing of results with the study by W. Liu and Z. Song (2020) on the sustainability of urban critical infrastructure networks showed that in the context of military conflict, the role of backup systems and the ability to quickly recover from attacks increases substantially. This highlights the need to develop special security strategies adapted to the conditions of active confrontation (Palko *et al.*, 2023). The study determined that critical infrastructure facilities that have developed and regularly updated business continuity and disaster recovery plans show substantially higher resistance to cyber-attacks. Especially effective was the creation

of distributed and duplicated control systems, which allows quickly restoring the functioning of critical objects even in the event of a successful attack on one of the components. These findings are comparable to the recommendations provided by H. Riggs *et al.* (2023) on strategies to mitigate the impact of cyber-attacks on critical infrastructure.

The analysis of the security system of information networks of critical infrastructure of Ukraine revealed both strengths (for example, the appropriate qualification of specialists in the protection of digital space) and weaknesses (in particular, outdated equipment at some critical infrastructure facilities). These results correlate with the conclusions of M. Kovaliv *et al.* (2021) on the need to improve legal support for the protection of the digital space of critical infrastructure in Ukraine. The analysis also showed that the strong point of the Ukrainian cyber defence system is the ability to quickly adapt to new threats and the high motivation of personnel. However, insufficient funding, especially in the regions, and the lack of a unified national strategy for cyber protection of critical infrastructure remain weak points. These factors pose substantial risks in the face of constantly evolving cyber threats.

Cyber-attacks on critical infrastructure information networks are a leading challenge to the country's state stability in the conflict with the aggressor (Yefimenko *et al.*, 2023a). This confirms the conclusions of I. Sopilko *et al.* (2022) on the substantial role of information wars in threats to Ukraine's information security. Experts also noted the growing role of artificial intelligence and machine learning both in the development of new attack methods and the creation of security systems. Special attention was paid to the need to develop a system for early detection of cyber threats and improve interagency coordination in responding to incidents. In addition, experts stressed the importance of increasing the electronic (digital) education of citizens as a key factor in countering cyber threats.

The main result is the need for continuous adaptation of security systems to new types of threats. This reflects the study by A. Djenna *et al.* (2021) which highlighted new challenges in protecting the digital space related to the development of the Internet of Things in the context of critical infrastructure. The study expands on these findings, indicating that in the context of active military conflict, the rate of emergence of new types of threats increases substantially, which requires the introduction of flexible and adaptive security systems. The importance of this statement lies in the fact that it highlights the need to move from static security models to dynamic ones that can quickly adapt to transformations in the threat landscape. This has important implications for the development of cybersecurity policies and strategies at the national level and planning investments in the development of critical infrastructure security systems.

The analysis showed the need to improve the legislative framework of Ukraine regarding threat prevention in critical infrastructure, especially in terms of defining responsibility and coordinating the actions of various departments. This complements the conclusions of M. Sokiran (2021) on the basic principles of public administration of critical infrastructure in Ukraine. However, the present study goes further, showing that in hybrid warfare, the existing regulatory framework is often not flexible enough to effectively respond to rapidly changing threats. This underscores the importance of developing new legislative mechanisms that would allow legal norms to be quickly adapted to new challenges without losing their effectiveness and legitimacy. This approach is consistent with the recommendations of C.M. Newbill (2019) on the need for a global approach to identifying and preventing threats to critical infrastructure.

Analysis of the report of the European Union Agency for Cybersecurity on the threat landscape for critical infrastructure of Ukraine determined common features and differences in approaches to cybersecurity between Ukraine and the EU countries (Cloud consciousness: Industry…, 2015). Thus, the growing role of state-sponsored cyber-attacks and the need to develop cross-border cooperation in the exchange of information on cyber threats are noted. These findings highlight the importance of Ukraine's further integration into the European cybersecurity system.

S.A. Mitoulis *et al.* (2023), reviewing the development of a framework for the sustainability of critical infrastructure in conflict situations showed that Ukraine faces unique challenges that require innovative approaches to ensuring cyber resilience. In particular, the authors established that traditional risk assessment methods are often ineffective in high-intensity conflict environments, where threats can change rapidly and combine in unpredictable ways. This highlights the importance of developing new risk assessment and security planning methodologies that consider the specifics of hybrid threats and rapidly changing security environments.

A key element of the study was the identification of the vital role of the human factor in ensuring the prevention of threats to the digital space of critical infrastructure. Although this is partially consistent with the statement of M.J. Khan (2023) on the importance of staff training, the study delves deeper, showing that in active conflict situations, the effectiveness of threat prevention often depends on the ability of staff to make quick and unconventional decisions under high stress. This points to the need to develop new approaches to training cybersecurity professionals that include not only technical skills, but also the development of critical thinking, stress tolerance, and the ability to adapt quickly.

Prospects for further research include the need for a more thorough study of the correlation between the physical safety and cybersecurity of critical infrastructure facilities in conflict situations. This aligns with the findings of E. Izycki and E.W. Vianna (2021) on critical infrastructure as a battlefield for cyber warfare, but the study highlights the need to develop integrated threat prevention approaches that consider both cybernetic and physical aspects of security. An important area of future research is also the development of methods for predicting and early detection of new types of cyber threats, which is exceptionally important in the context of the use of advanced technologies by the enemy, such as machine computing (artificial intelligence).

Scenario modelling of potential cyber-attacks has shown that the energy and financial sectors of critical infrastructure remain the most vulnerable. This is consistent with the paper of A. Abedi *et al.* (2019), which noted the high vulnerability of energy systems to cyber-attacks. However, contrary to their findings, the study showed that in the context of active military conflict, the vulnerability of transport and telecommunications infrastructure also increases substantially. Modelling various attack scenarios allowed identifying potential vulnerability points and assessing possible cascading effects in the event of a successful attack on one of the key objects. The results of this simulation highlight the need to develop comprehensive response plans for various types of

cyber-attacks, including scenarios of simultaneous attacks on various sectors of critical infrastructure. The results draw attention to the crucial importance of continuous improvement of threat prevention systems for information networks of critical infrastructure of Ukraine in the context of the ongoing conflict with Russia. They also indicate the expediency of continuing scientific research in this area, in particular, the development of innovative methods for detecting and countering new types of cyber-attacks.

Conclusions

The conducted study allowed obtaining a number of practical results. The analysis identified substantial discrepancies between the existing state of security in the state and international standards, especially in terms of technical support and investment. It was established that after the start of a full-scale Russian invasion on February 24, 2022, the number and complexity of cyber-attacks on strategically important objects in Ukraine has substantially increased, which emphasises the need to strengthen digital defence methods. The study confirmed the effectiveness of integrated protection approaches that combine technical, organisational, and legal measures. Organisations that have implemented a multi-level security system demonstrate higher resistance to cyber-attacks. Most experts consider cyber-attacks on critical infrastructure information networks to be one of the biggest threats to Ukraine's national security in a conflict situation.

A significant challenge confronting Ukraine is the alignment of its cybersecurity legislation with international norms, such as the EU's NIS 2 Directive and NATO protocols. There are evident deficiencies in the categorisation of critical infrastructure, compliance standards, and liability measures. Legal fragmentation and inadequate interagency coordination impede cybersecurity efforts, and the absence of a unified national cyber defence strategy exacerbates vulnerabilities. A comparative analysis reveals that leading cybersecurity frameworks in the USA, UK, and Germany enforce stricter compliance and oversight. In order to address these challenges, Ukraine must adopt advanced risk assessment strategies and establish a dedicated national cybersecurity agency with expanded authority to enforce standards and coordinate resilience efforts.

Furthermore, stronger legal frameworks for public-private partnerships are required. Unlike the USA's Critical Infrastructure Partnership Advisory Council, Ukraine lacks structured collaboration between state authorities and private operators. Incentives for private sector participation in cybersecurity investments and information-sharing should be expanded. International cooperation is vital for countering cyber threats. While Ukraine is a participant in the Convention on Cybercrime and NATO initiatives, additional legal provisions are required for cross-border data exchange, incident reporting, and coordinated cyber defence. The study recommends accelerating international cybersecurity standard adoption, strengthening legislative mechanisms, and enhancing accountability for cyber incidents. These measures will improve Ukraine's cyber resilience through regulatory consistency, institutional capacity-building, and more effective responses to emerging threats. Legal adaptation to global best practices is essential to mitigate evolving cybersecurity risks. During the analysis of the regulatory framework of Ukraine, certain gaps were identified in regulating the protection of critical infrastructure in a hybrid war. The existing regulatory framework is often not flexible enough to effectively respond to rapidly changing threats. This underlines the need to develop new legislative mechanisms that would provide for a quick adaptation of legal norms to meet new challenges without losing their effectiveness and legitimacy.

The study had certain limitations related to the partial availability of data on the real state of security of important infrastructure for national security reasons, as well as the rapidly changing situation in conditions of active conflict. For further research, it is recommended to focus on developing methods for predicting and early detecting new types of cyber threats and examining the relationship between the physical safety and cybersecurity of critical infrastructure facilities in conflict situations.

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Conflict of interest

None.

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Шляхи вдосконалення правового регулювання захисту інформаційних мереж критичної інфраструктури

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Анотація. Дослідження було спрямоване на визначення шляхів удосконалення правового регулювання захисту інформаційних мереж критичної інфраструктури України, враховуючи сучасні виклики у сфері кібербезпеки та міжнародні стандарти. У роботі використано порівняльний аналіз законодавства України, ЄС, США та Великої Британії, що регулює кібербезпеку критичної інфраструктури, а також проведено оцінку ефективності чинних нормативно-правових актів у контексті сучасних загроз, зокрема збройного конфлікту. Аналіз виявив фрагментарність чинного законодавства, відсутність ефективного механізму координації державних органів, а також недостатність правових інструментів для регулювання відповідальності за кіберзлочини, спрямовані на критичну інфраструктуру. Встановлено, що нормативна база України лише частково відповідає міжнародним стандартам, що ускладнює її гармонізацію з вимогами ЄС. Недостатня інтеграція державного та приватного секторів у сфері кібербезпеки також є суттєвим чинником, що стримує ефективність захисту стратегічних цифрових об'єктів. Для підвищення ефективності правового регулювання необхідно здійснити комплексну гармонізацію законодавства України з нормами ЄС, зокрема з Директивою NIS 2, що визначає єдині вимоги до захисту критичної інфраструктури. Доцільним є запровадження обов'язкової сертифікації кібербезпекових заходів, а також розширення кримінальної відповідальності за кібератаки на критичну інфраструктуру, включаючи санкції для юридичних осіб. Важливим напрямом є законодавче закріплення створення єдиної національної системи моніторингу кіберзагроз і вдосконалення механізмів державно-приватного партнерства. Запропоновані зміни сприятимуть підвищенню рівня кіберстійкості критичної інфраструктури України, її відповідності міжнародним стандартам та інтеграції у глобальну систему кібербезпеки

Ключові слова: кіберстійкість; цифровий простір; стратегічні об'єкти; кіберзагрози; національна безпека

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Value of the European understanding of the rule of law for the development of the modern democratic state: Theoretical and historical aspect

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Abstract. The purpose of this study was to investigate potential ways to improve the legal system of Ukraine using European standards and practices. The study analysed the history of the rule of law in Europe, compared legal systems, studied legal reforms in Ukraine, analysed statistical data, and identified the principal issues of the Ukrainian legal system. It was found that although Ukraine has made great strides towards preventing corruption since independence, the country's legal system still requires considerable changes. It was also found that the current state of the European rule of law shows mixed trends. On the one hand, countries such as Denmark, Norway, Finland, Sweden, and Germany continue to hold the top positions in global rankings of the rule of law and anti-corruption measures, showing stable results in terms of protection of fundamental rights, law enforcement, and compliance with the law. On the other hand, countries such as Poland and Hungary have begun to demonstrate considerable levels of corruption and political instability, continuing to occupy low positions in global rankings. It was established that the greatest influence on the development of the modern Ukrainian democratic state from the standpoint of the European understanding of the rule of law was exerted by Germany, specifically its experience in reforming the legal system after the Second World War; Sweden, namely, the models of transparency and public control; Finland and Denmark with their approaches to law enforcement and compliance with laws, as well as anti-corruption measures. Furthermore, these countries not only demonstrate successful models of the rule of law, but also actively support Ukraine in implementing such standards through various technical aid programmes and expert advice

Keywords: rule of law; integrity; state institutions; reforms; political system

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Introduction

Advancing European integration requires not only the adaptation of legislation, but also a change of mentality in society and government structures, with the purpose of creating a system where human rights and freedoms are protected at the highest level. Following the Revolution of Dignity in 2014, Ukraine has embarked on a course of European integration and implementation of European standards in the legal system, which is critical for strengthening democratic institutions and the rule of law. In the current context of the war with Russia and the need to rebuild the state, an examination of the key features of the European rule of law helps to understand the mechanisms that can be effectively applied to stabilise and develop Ukraine as a state governed by the rule of law.

The problematic of this study lies in the need for an in-depth understanding of how the European understanding of the rule of law can be effectively implemented in the Ukrainian context to strengthen democratic institutions and the rule of law. There is a problem of adapting these principles to the specific historical, cultural, and social conditions of Ukraine, which are complicated by the challenges of war and post-war reconstruction.

A. Gora and P. de Wilde (2022) investigated the problem of democratic backsliding in the EU, which manifests itself in the violation of democratic norms in some member states. The researchers stressed the key role of legal mechanisms and the independence of the judiciary in preventing these violations. Without an effective rule of law, democratic institutions become vulnerable. However, they have not sufficiently addressed the impact of the national contexts of individual countries on the overall state of democracy in the region. B. Vitvitsky (2022) considered the need for the rule of law as a key element for the successful reconstruction of Ukraine after the war. The researcher's findings suggest that transparent and accountable legal reforms are necessary to achieve Ukraine's stable development. The researcher emphasised that the country's recovery from the conflict is impossible without strengthening the rule of law, as it is the only way to ensure stability and protection of citizens' rights. While B. Vitvitsky (2022) emphasised the significance of transparent reforms, there is no detailed analysis of how these reforms can be implemented in practice, particularly considering the complex political and social realities of Ukraine.

A study by the European Commission for Democracy Through Law (2020) focused on the impact of justice in states of emergency against the backdrop of the colonial past. The report highlighted the key role of the rule of law in protecting democracy and human rights during crises. Historical examples show how legal mechanisms have maintained stability and protected rights. However, there was little research on the adaptation of modern legal institutions to new challenges, such as pandemics and climate change.

G. Halmai (2019) explored the conditionality of the rule of law in the EU, where access to resources is contingent on compliance with legal norms. The researcher stressed the significance of equal application of rule of law mechanisms to all member states. Author also considered the possibility of adapting these principles to develop the democratic institutions in Ukraine. However, the potential negative consequences of conditionality for smaller states and the issue of responding to countries' refusal to follow the standards were understudied. M. De Witte (2022) analysed the conflict between democratic trends in Ukraine and autocracy, particularly in Russia. The success of democracy in Ukraine threatens autocratic regimes, as its example can stimulate democratic reforms in other post-Soviet countries. Ukraine could become a model for the region, showing that democracy promotes stability and development. However, the study did not sufficiently address how Ukraine can effectively spread its democratic influence under external pressure.

O.M. Chernetchenko and V.I. Grebenyk (2024) examined the development of social rights in the context of historical events such as the First World War and the Great Depression. They compared the legislative acts of several countries and found differences in priorities: some countries focused on the right to work, while others focused on healthcare. The key factors were the economy, political regime, and public sentiment. However, the study did not sufficiently address contemporary challenges such as globalisation and technological change. A study by the M. Bogaards (2018) and CEU Democracy Institute (2024) examined the retreat from the rule of law in Poland and Hungary, focusing on the weakening of democratic institutions and the independence of the judiciary. This is a matter of concern in the EU, as such processes threaten the legal norms underpinning European cooperation. However, the study did not sufficiently address how other EU countries might respond to these violations, nor did it pay sufficient attention to the long-term implications for the stability of the Union. R.D. Kelemen (2020) analysed the authoritarian equilibrium in the EU, focusing on Poland and Hungary, which maintain stability by enjoying the benefits of EU membership but undermining democratic principles. They achieve this by concentrating power and weakening the system of checks and balances. However, the study did not sufficiently consider possible scenarios for the EU's response to the continuation of authoritarian trends.

The studies underline the role of European legal standards in strengthening democratic institutions and the rule of law in Ukraine. Transparent legal reforms will contribute to the fight against corruption and the country's sustainable development. The analysis of democratic backsliding in the EU demonstrates the role of legal mechanisms in maintaining democracy. Furthermore, the rule of law stays critical even in a crisis, as long as the adequate legal norms are applied. International cooperation and exchange of practices between the EU and Ukraine is also important to improve legal systems.

A combination of European legal standards, national reforms, and active participation of civil society, including independent judicial oversight, will help fight corruption, strengthen democracy, and ensure sustainable development of Ukraine. Considering the above, the purpose of this study was to explore the possibilities for further improvement of Ukraine's legal system based on European standards and practices. The objectives of the study were as follows: to investigate the key theoretical approaches to understanding the rule of law in the European context; to analyse the historical development of the rule of law principles in Europe and their effect on the legal systems of European countries; to identify the key aspects of the European rule of law that can be adapted to the Ukrainian legal system.

Materials and methods

The study examined the historical stages of the rule of law in Europe, covering the periods of antiquity, the Middle Ages, the Renaissance, the Enlightenment, and the modern era.

The study analysed key events, legislative initiatives, and social movements that influenced the formation of the European understanding of the rule of law, such as the *Magna Carta*, the French Revolution, and the adoption of the European Convention on Human Rights. The study compared various legal systems of European countries, namely the Romano-Germanic and Anglo-Saxon systems, and their contribution to the development of the rule of law concept. The study focused on the current state of the rule of law in such countries as Denmark, Norway, Finland, Sweden, Germany, the United Kingdom, Poland, Italy, Estonia, Spain, France, Switzerland, and Austria.

Particular attention was paid to the study of the historical context of the development of the rule of law in Ukraine, including the periods when Ukrainian lands were under the rule of various European states (the Principality of Lithuania, the Polish-Lithuanian Commonwealth, Austria-Hungary). The analysis of legal reforms in Ukraine after gaining independence in 1991 was based on European practices and recommendations, including reforms of the judicial system, adoption of new laws, and adaptation of European standards. The study identified the key aspects of the influence of European rule of law on the development of the Ukrainian legal system and democratic institutions, such as human rights protection, the rule of law, transparency, and accountability of the authorities. The study analysed statistical data on public attitudes in Ukraine towards foreign countries, international organisations, politicians, and the process of Ukraine's accession to the European Union, specifically, data from the Razumkov Centre report (2024). The study examined how the Law of Ukraine No. 1798-VIII "On the High Council of Justice" (2016) regulates the legal status, powers, procedure for the formation and operation of the High Council of Justice (HCJ), which is an independent body of judicial governance. The historical document Magna Carta (1215) helped to understand the evolution of the rule of law in England, which was useful in the context of analysing the development of the rule of law in the European countries mentioned above. In addition, the Law of Ukraine No. 1402-VIII "On the Judiciary and the Status of Judges" (2016) and the Law of Ukraine No. 1700-VII (2014) were crucial to the study, as they laid the foundations for modern legal regulation in various areas. Furthermore, the Order of the Cabinet of Ministers of Ukraine No. 1049-r "On Approval of the Action Plan for the Implementation of the Open Government Partnership Initiative in 2023-2025" (2023) and the Razumkov Centre survey data (2024) were also analysed.

The key problems and challenges faced by the Ukrainian legal system were identified. The study examined the report of the European Commission (2024), which highlighted Ukraine's progress in implementing reforms, particularly in the areas of anti-corruption measures, judicial reform, decentralisation, and public financial management. The role of international organisations in supporting rule of law reforms in Ukraine was also investigated. Specifically, the contribution of such organisations as the Council of Europe (2024) and the Organisation for Security and Cooperation in Europe (OSCE) (2024). The research analysed successful instances of e-justice and process automation inside the legal system, significantly enhancing its efficiency and transparency (Vitvitsky, 2022). The World Justice Project (2023) rule of law index underscored the difficulties Ukraine encounters in executing these changes, especially with judicial independence, governmental accountability, and anti-corruption efforts. Despite advancements in reinforcing legal institutions, the Freedom House (2023) study highlighted the enduring deficiencies in democratic governance and legal security. Resolution of the European Parliament No. 2023/2739(RSP) "On the Sustainable Reconstruction and Integration of Ukraine into the Euro-Atlantic Community" (2023) underscores the necessity of strengthening Ukraine's judicial system, ensuring legal transparency, and reinforcing anti-corruption measures as prerequisites for its Euro-Atlantic integration. The study included an assessment of the impact of technical aid programmes and grant projects aimed at improving the skills of Ukrainian judges, prosecutors, and lawyers. The study examined successful cases of e-justice and process automation in the judicial system, which considerably increased its efficiency and transparency.

Results and discussion

Historical stages of the rule of law in Europe. The study of the historical stages of the rule of law in Europe began with an analysis of ancient times. Ancient Rome laid the foundations of the legal system that influenced the further development of European jurisprudence. Roman law, with its systematisation and codification, became the foundation for many modern legal systems. The Laws of the Twelve Tables, created in the 5th century BC, became the first codified set of laws that set out the rights and obligations of citizens. One important feature of Roman law was its flexibility and ability to adapt to changes in society, which ensured its long-term use. For example, the Digests of Justinian, compiled in the 6th century AD, systematised and adapted the rules of law, which ensured their application in changing social conditions.

The Magna Carta (1215) was the first document to limit the absolute power of the King of England, securing the principle of acting according to the law. It contributed to the development of a constitutional monarchy and parliament, ensuring the representation of public interests and control over the monarch's actions. The document laid the foundations for modern legal procedures, including the right to a fair trial and protection from arbitrary detention, and inspired later documents such as the English Bill of Rights of 1689 and the US Constitution of 1787. *Magna Carta* has become a key document in the development of the rule of law and the protection of human rights.

The Renaissance brought innovative ideas to the field of legal studies, specifically the development of humanist thought and the ideas of natural law. Humanists, such as Erasmus of Rotterdam and Thomas More, advocated the recognition of natural human rights that cannot be violated by the state. These ideas were reflected in the writings of philosophers and jurists, which helped to form the basis of modern legal thinking. The revival of the ancient heritage and the emphasis on rationalism became crucial aspects of the development of legal science during this period. For example, the works of Hugo Grotius and Samuel Pufendorf laid the foundations of international law and the concept of state sovereignty. Hugo Grotius, in his treatise On the Law of War and Peace, developed the ideas of natural rights and international law that became the basis for the modern understanding of sovereignty and the rights of states (Burns, 1988).

The Enlightenment was another major stage in the development of the rule of law in Europe. Philosophers of this period, such as John Locke, Charles-Louis de Montesquieu, and Jean-Jacques Rousseau, developed ideas about the separation of powers, the social contract, and natural rights. C.L. de Montesquieu (1989) in his work The Spirit of the Laws substantiated the need for the separation of powers into legislative, executive, and judicial, which was to prevent abuse of power. Rousseau's ideas on the sovereignty of the people and the social contract became the basis for the development of democratic principles in state governance. These concepts influenced the formation of many European constitutions and were entrenched in the legal consciousness of Europeans. For example, the US Constitution of 1787, largely based on the ideas of C.L. de Montesquieu, was the first written constitution to enshrine the principles of separation of powers and protection of human rights (Sher, 2008).

The French Revolution and the adoption of the European Convention on Human Rights were key events in the shaping of human rights in Europe. The 1789 Declaration of the Rights of Man and of the Citizen established the principles of equality, liberty, and fraternity that underpin modern democratic states. The European Convention on Human Rights (1950) created a mechanism for citizens to apply to the European Court of Human Rights (ECtHR) to defend their rights, as in the case of Loizidou v. Turkey (1996), which confirmed the applicant's property rights. These developments highlight the link between social movements, legislative initiatives, and the development of the rule of law (Lauren, 2011). One of the key documents in the history of England is the Magna Carta (1215), which greatly influenced the evolution of the rule of law. It was concluded between King John the Landless and the English barons, who demanded to limit royal power and protect their rights. *Magna Carta* contains 63 articles that establish various rights and obligations of the monarch and their subjects. Specifically, Article 39 states that no free person shall be arrested, imprisoned, or deprived of their rights without due process of law by their peers or according to the law of the land, which became the basis for the principle of *habeas corpus*. The European Convention on Human Rights (1950) establishes fundamental rights and freedoms essential to a democratic society, including the right to life, fair trial, freedom of expression, and privacy. The Convention, through the ECtHR, provides a mechanism for the protection of these rights and influences national legal systems. The ECtHR's judgments set precedents that are essential for legal practice and trends in the field of human rights. The Convention also emphasises the value of international cooperation in the protection of human rights, and its history helps to understand the development of modern standards (Schabas, 2015).

In Europe, the development of the rule of law has largely depended on internal social movements and integration processes between states. The creation of the European Union was a milestone in this context. After the end of World War II, European integration began in 1940-1950, leading to the creation of the European Economic Community, which later became the European Union. The European Union has introduced many mechanisms to guarantee the rule of law in its member states. One of these mechanisms was the adoption of the Charter of Fundamental Rights of the European Union (2009), which was approved in Nice in 2000 and entered into force in 2009 with the Treaty of Lisbon (2009). According to this article, EU citizens are entitled to a fair trial, data protection, equality before the law and non-discrimination. For example, the case in Poland, where the European Commission initiated a procedure under Article 7 of the EU Treaty due to concerns regarding the independence of the judiciary, shows how important it is to integrate mechanisms to guarantee the rule of law (Pech & Scheppele, 2017).

Another notable example of the impact of European reforms is the development of justice in Central and Eastern Europe after the fall of communism. The accession of these countries to the European Union was conditional on large-scale reforms in the justice sector, adherence to the principles of democracy and the rule of law. This included reforming judicial systems, fighting corruption, ensuring judicial independence, and respecting human rights. For example, in Romania and Bulgaria, considerable efforts were made to establish anti-corruption agencies and ensure transparency of state institutions, which was a condition for their accession to the Treaty of Lisbon (2007). The study also showed that internal reforms and participation in international organisations and international treaties contributed to the development of the rule of law in Europe. European countries have actively cooperated with the United Nations (UN), the Council of Europe, the OSCE, and other international organisations to promote the rule of law and human rights around the world. For example, membership in the Council of Europe meant the adoption of the European Convention on Human Rights and recognition of the jurisdiction of the European Court of Human Rights, which was a great step towards the protection of human rights at the international level (Pech & Kochenov, 2019).

Rule of law principles promote the development of fair and stable legal systems, ensuring equality before the law, protecting citizens' rights, and preventing abuse of power. This creates transparent legal processes, a favourable investment climate and economic stability. European countries that have implemented these principles have ensured effective protection of rights through independent courts and the fight against corruption, which has increased trust in state institutions and contributed to economic growth. The rule of law also guarantees legal certainty, which is important for business and investment, by maintaining the stability of legal relations. The basic ideas of the rule of law provide mechanisms for the peaceful resolution of disputes. An independent and effective judiciary allows conflicts between citizens, businesses, and the state to be resolved without violence, ensuring a fair trial. This helps to reduce social tension and maintain public order, which underpins the stable development of society. The rule of law increases the level of civic engagement and participation in government. Transparency of legal processes and the possibility of appealing against decisions of state authorities encourage citizens to take an active part in social and political life. This contributes to the development of democratic institutions and ensures control over the government by civil society. In countries with developed rule of law principles, citizens have greater access to information and opportunities to influence decision-making, which ensures more effective and accountable governance.

The basic ideas of the rule of law promote integration and cooperation among European countries by providing common legal standards that strengthen mutual understanding in the areas of economy, security, and human rights. In the EU, the rule of law is key to the stability and

development of integration processes, enabling countries to cooperate effectively and address common challenges. The implementation of these principles protects the rights of citizens, promotes economic development, social stability, and international cooperation, building democratic societies where every citizen can exercise their rights (James, 2011). The Lithuanian statutes laid the foundation for the legal system of the Ukrainian lands during the period of the Grand Duchy of Lithuania's rule. The principles of the rule of law, protection of property rights, and independence of the judiciary are laid down in the Lithuanian statutes. These principles were consolidated at the legislative level and contributed to the development of a legal culture focused on justice and compliance with the law. In modern Ukraine, this historical experience can be used to strengthen the independence of the judiciary. Establishing an independent judicial selection commission that includes representatives of the judiciary, civil society organisations, and international experts can help ensure that judges are independent of political influence and increase trust in the judiciary.

The period when Ukrainian lands were under the rule of the Polish-Lithuanian Commonwealth brought elements of representative democracy and self-government. Polish law and the system of sejm democracy contributed to the development of civil society and legal culture. This historical experience has become useful for Ukraine in the context of expanding citizen participation in decision-making. The practice of public discussions and local referendums enabled citizens to take an active part in the political life of the country, which increased the level of trust in state institutions and contributed to the development of democratic traditions (Polish law, n.d.). The period under the rule of Austria-Hungary was characterised by the introduction of the system of administrative law and social protection that was typical for this multinational empire. The Austrian administrative system was characterised by a great level of organisation and efficiency, as well as the introduction of social standards that ensured an adequate standard of living for citizens. Ukraine can use this experience to improve its administrative system through the introduction of e-government, which will ensure transparency and efficiency of public administration, as well as through the development of a social protection system that will help ensure decent living conditions for all citizens. Another important aspect arising from the European experience is the fight against corruption.

Since gaining independence in 1991, Ukraine has embarked on large-scale legal reforms aimed at creating an efficient and democratic legal system, integrating into European structures and implementing European standards of the rule of law (Spytska, 2023). By examining these reforms in the light of the European experience, this study identified the principal directions, achievements, and challenges that have influenced the current state of Ukraine's legal system. The legal reform included the independence of the judiciary. Since gaining independence, Ukraine has sought to protect the independence of courts and judges. Specifically, laws were adopted to regulate the appointment and dismissal of judges, their independence and accountability. However, experience has shown that political influence on the judiciary continues to be a serious challenge. To overcome this, Ukraine can draw on the experience of Germany and other European countries, where independent judicial selection commissions help to minimise political pressure and ensure objectivity in the judicial appointment process. Transparency in public administration has become another crucial area of reform. The introduction of e-governance, as in the case of Estonia, could greatly increase the transparency and efficiency of public administration in Ukraine. Although some steps have been taken in this regard, such as the creation of electronic services for the provision of public services, this process needs further development and improvement. The use of Estonian practices, such as the X-Road platform, could enable more efficient data exchange between government agencies and citizens, reducing bureaucracy and increasing trust in government agencies.

One of the greatest challenges facing Ukraine since independence has been the fight against corruption. Although anti-corruption bodies have been established, some of them are entities that have a special mandate to fight corruption: The National Anti-Corruption Bureau of Ukraine (NABU) and the Specialised Anti-Corruption Prosecutor's Office (SAP), the High Anti-Corruption Court, the National Agency for the Prevention of Corruption, as well as other anti-corruption bodies in Ukraine, such as the prosecution authorities, the Security Service of Ukraine, the State Bureau of Investigation, the National Agency of Ukraine for finding, tracing, and management of assets derived from corruption and other crimes, the Bureau of Economic Security of Ukraine, and the National Police of Ukraine (investigative and strategic units) (Kostiuk & Iryna, 2024). The European experience, particularly the example of Spain with its National Anti-Corruption Prosecutor's Office, shows that success in the fight against corruption is possible when anti-corruption bodies are independent and provided with sufficient powers and resources. Ukraine should continue to reform its anti-corruption institutions, ensuring their independence from political influence and increasing their effectiveness (Mangas, 2022).

The development of legal culture and legal awareness in Ukraine, especially the protection of the rights of vulnerable groups, are key areas of reform. The establishment of institutions, such as the Ukrainian Parliament Commissioner for Human Rights, and legislation to protect minorities have been essential steps. However, based on European practices, further improvement of these mechanisms is warranted. Transparency of governance can be enhanced by direct democracy mechanisms, as in Switzerland. Public discussions and local referendums already exist in Ukraine, but this tool needs to be developed.

Consumer protection has also been on the agenda of legal reforms. France has an effective consumer protection system, which includes specialised organisations and legislation regulating the quality of goods and services. In Ukraine, steps have been taken in this respect, including the adoption of the Law of Ukraine No. 3153-IX "On the Protection of Consumer Rights" (2023), which replaces the previous law adopted in 1991 and will come into force one year after publication or after the lifting of martial law in Ukraine, introduces requirements for online sellers to provide consumers with full information about goods and services, and introduces a web portal for filing complaints. The law also establishes mandatory warranty periods for various categories of goods and entitles consumers to record violations with photos and videos. The State Service of Ukraine for Food Safety and Consumer Protection has been given expanded powers to restrict access to websites that violate consumer rights. The law also promotes active engagement of civil

society in consumer protection through training and litigation. However, further improvements to the consumer protection system, the establishment of specialised organisations and the introduction of clear legal provisions could also greatly improve the quality and safety of goods and services. Protecting workers' rights and ensuring decent working conditions is also an important aspect that needs to be further developed. Based on the experience of Norway, which has a robust system of labour rights and social protection, Ukraine could improve its labour legislation by introducing strict standards of working conditions, minimum wages, and social protection for all employees.

Theoretical approaches to understanding the rule of law. Theoretical approaches to the rule of law in the European context are divided into normative, institutional, and cultural. Normative approaches emphasise the value of legal norms, such as the rule of law, equality before the law, and the protection of human rights, as established in international treaties and constitutions (de Montesquieu, 1989). Institutional approaches focus on the structure of legal institutions, such as independent courts and effective law enforcement agencies, which ensure transparency and control over compliance with the law and counteract abuses of power.

Cultural approaches to the rule of law emphasise the influence of social factors, such as legal awareness, education, and legal traditions. They foster respect for the law and an understanding of the significance of the rule of law for the development of society. The rule of law in Europe is based on norms, institutions, and culture. The European Union, through its instruments, such as the Charter of Fundamental Rights (2009), and bodies, such as the European Court of Human Rights, plays a significant role in ensuring common legal standards in the region. New EU accession countries must adhere to the principles of the rule of law, such as judicial independence, human rights protection, and the fight against corruption. Ensuring the rule of law in each member state is a challenge, especially in times of crisis. The EU is developing mechanisms to monitor and assess the state of the rule of law. Civil society, including independent media and activists, plays a vital role in monitoring human rights, increasing transparency, and holding governments accountable. The EU supports programmes to strengthen institutional capacity and raise legal awareness, including training for judges, prosecutors, and police, as well as public awareness campaigns. These measures increase trust in the legal system and build a legal culture. Vulnerable groups, such as migrants and national minorities, are also protected through anti-discrimination directives. In the context of globalisation, new challenges arise, particularly in the sphere of cybersecurity and personal data protection, which the EU is actively working on. The rule of law process requires constant improvement and adaptation.

It is also important to remember how international organisations promote and develop the rule of law in Europe. In terms of oversight of human rights and the rule of law, the key bodies are the UN, the Council of Europe, and the OSCE. They assess the state of the rule of law in countries, provide technical aid and conduct election observation missions. The Council of Europe, for instance, is known for its ECtHR, which ensures justice in matters of human rights violations. The ECtHR's judgments are binding on Council of Europe member states, which contributes to the harmonisation of legal standards in the region. The United Nations, through its various agencies and programmes, such as the Office of the United Nations High Commissioner for Human Rights, is also actively working to strengthen the rule of law. The Office provides expert advice in the development of national legislation, training, and educational programmes for law enforcement and civil society. The OSCE addresses security and cooperation issues, including monitoring human rights and the rule of law in participating states. Its Office for Democratic Institutions and Human Rights observes elections and provides recommendations for improving electoral processes and adherence to democratic standards (Organisation for Security and Cooperation in Europe, 2024; Council of Europe, 2024). International indexes have assessed Ukraine's democratic progress. The World Justice Project's (2023) rule of law index reveals enhancements in Ukraine's legal system, although it underscores persistent issues related to judicial integrity and the efficacy of law enforcement. Likewise, Freedom House's assessment affirms that Ukraine is advancing in governance changes, while apprehensions remain about political dominance over state institutions (Freedom House, 2023).

National governments in Europe are implementing programmes to strengthen the rule of law, including reforming the judiciary, improving legal education, and fighting corruption. Civil society and independent media play an integral role as monitors of legal standards (Semeniuk & Horbach-Kudria, 2024). Innovations such as e-governance increase the transparency of governance but require regulation and data protection. The rule of law in Europe is based on the interaction of normative, institutional, and cultural components, achieving superior standards through the cooperation of states, international organisations, and civil society. Germany is actively reforming its judicial system to make it more efficient and transparent. A major step has been the introduction of e-justice, which allows for faster case processing and better access to justice. Furthermore, Germany has developed strategies to combat corruption, including the creation of special anti-corruption bodies and the introduction of strict transparency rules for public officials (Fisher, 2009).

In France, one of the key initiatives is the creation of the High Council of the Magistracy, which ensures the independence of the judiciary and controls the activities of judges. Furthermore, France has implemented reforms in the criminal justice system to improve prison conditions and guarantee human rights in the penitentiary system. Strengthening institutional capacity and fighting corruption are the primary goals of the rule of law in Denmark. Denmark has a prominent level of transparency of state bodies and an effective system of control over compliance with the law. For instance, the country has an independent Ombudsman's Office that considers citizens' complaints against public officials and protects human rights. Denmark is also actively implementing e-governance, which simplifies citizens' access to public services and increases the efficiency of public administration.

Norway pays great attention to legal education and access to justice. Norway has a developed system of free legal aid for vulnerable groups, such as migrants, refugees, and people with disabilities. Furthermore, Norway has introduced a system of ombudsmen to protect the rights of children, patients, and other vulnerable groups. The government is also actively working to prevent corruption through the creation of special anti-corruption bodies and the

introduction of strict ethical standards for civil servants. Independent courts and transparent decision-making procedures play a vital role in ensuring the rule of law in Finland. Finland regularly reforms its judicial system to make it more efficient and accessible. Additionally, the government is actively working to raise the level of legal culture among its citizens through educational programmes and information campaigns. Finland is also known for its strong human rights protection system, which includes an independent Human Rights Ombudsman's Office that deals with citizen complaints and protects their rights.

Sweden is actively working to raise legal awareness among the population. One such initiative is educational programmes for citizens aimed at explaining their rights and obligations. Sweden has also introduced a system of ombudsmen who consider citizens' complaints against the actions of state authorities and protect their rights. Furthermore, Sweden has an effective anti-corruption system that includes strict rules of transparency and accountability for public officials. In Spain, the government is actively fighting corruption through the creation of the National Anti-Corruption Directorate. This office has broad powers to investigate cases of corruption at all levels of government. Furthermore, Spain has implemented strategies to increase the transparency of public procurement, which reduces the risk of corruption.

Poland pays great attention to reforms in the justice sector. The government is doing everything possible to ensure the independence of the courts and fair trials. Poland has also implemented programmes to improve access to justice for vulnerable groups, such as migrants and people with disabilities (Waelbroeck & Oliver, 2018). Italy has established the Anti-Corruption Authority (ANAC) to monitor and enforce compliance with anti-corruption legislation in the public sector. Italy is also actively implementing programmes to improve transparency in the management of public resources and ensure unrestricted access to information. The United Kingdom has an Ethical Standards Commission that monitors the activities of civil servants and ensures compliance with ethical standards. The country has also introduced large-scale educational programmes for citizens and officials aimed at raising legal awareness and preventing corruption. The Netherlands pays special attention to legal education of the population. The country has an extensive legal aid system that provides access to justice for all segments of the population. The Netherlands is also introducing innovative approaches to justice, such as mediation and alternative conflict resolution (Lomaka, 2022).

A detailed analysis of the impact of European reforms on the Ukrainian legal system revealed considerable changes in the structure and functioning of Ukrainian institutions. The key areas of reform included the introduction of EU standards related to the rule of law, human rights protection, transparency, and accountability of public authorities. The success of these reforms was particularly evident in the judiciary, where the introduction of anti-corruption courts and e-justice contributed to increased efficiency and reduced corruption.

The establishment of the High Anti-Corruption Court in 2019 was a key step in the fight against corruption in Ukraine. The court, which specialises in high-level corruption cases, had heard over 100 cases by the end of 2023, helping to reduce corruption in the public sector. In parallel, the introduction of the E-Court system enabled citizens to submit documents and track the progress of cases online, reducing bureaucracy and opportunities for corruption. In 2022, over 60% of all court cases in Ukraine were processed through this system. Police reform has also been instrumental in making law enforcement more transparent and accountable. The creation of the new patrol police in 2015 considerably increased public trust in law enforcement. According to a 2020 survey, the level of public trust in the new police increased to 40%, compared to 15% before the reforms. The introduction of a body camera system for police officers, which began in 2017, reduced the number of complaints about police misconduct by 30% in the first year of use. Furthermore, the introduction of new legislation and institutional mechanisms, such as the establishment of the human rights ombudsman and specialised anti-corruption bodies, has contributed to the effective protection of human rights and the rule of law in Ukraine. The Ombudsman institution plays a significant role in protecting the rights of citizens by monitoring the observance of human rights and providing assistance in cases of human rights violations. The creation of specialised anti-corruption bodies such as the NABU and the SAPO has made the fight against corruption at the highest levels of government more effective. By mid-summer 2020, Ukrainians' trust in the security and law enforcement agencies had weakened. The level of distrust in the police and the State Security Service reached almost 60%, and more than 71% of Ukrainians did not trust the Anti-Corruption Bureau. A survey in January 2024 showed that 58% of citizens expressed trust in the National Police of Ukraine and 51% in the National Anti-Corruption Bureau of Ukraine (Razumkov Centre, 2024).

The findings of the study show that European reforms have substantially improved Ukraine's legal system, increased the efficiency of state institutions, reduced corruption, and reinforced human rights protection. The modernisation of the judiciary included anti-corruption courts, e-justice and the retraining of judges and prosecutors. Civil society has played a significant role in monitoring trials, which has increased trust in the system. The introduction of electronic services, such as registries and the Prozorro system, has greatly simplified access to public services and increased the transparency of procurement. The introduction of electronic real estate and business registries has facilitated registration procedures and made them more transparent. Major changes also took place in the area of human rights protection. The introduction of legislative initiatives to combat discrimination has provided greater protection for various social groups, including women, ethnic minorities, and people with disabilities. The adoption of the Law of Ukraine No. 2229-VIII "On Preventing and Combating Domestic Violence" (2017) was a significant step in protecting the rights of women and children, ensuring the establishment of specialised care centres and hotlines.

Ukraine actively cooperated with the ECtHR, which helped protect the rights of citizens and improve national legislation. Analysis of the ECtHR judgments revealed weaknesses in the legal system and contributed to the development of effective mechanisms to address them. Opinion polls show that Ukrainians support the European vector of development (Rating, 2024). The key lessons from the European rule of law include ensuring the independence of the judiciary, reforming the system of appointing judges, and creating mechanisms to monitor their performance. Transparency of public administration, which is being actively implemented

in Europe through e-governance, simplifies access to services and reduces bureaucracy. For Ukraine, the expansion of electronic services and open databases will be another major step (European Commission, 2024). The fight against corruption continues to be key. European practices demonstrate the effectiveness of anti-corruption bodies, strict ethical standards, and public engagement. Ukraine can adopt these practices by expanding the powers of anti-corruption bodies and protecting whistleblowers, pursuant to the Law of Ukraine No. 1700-VII (2014), which guarantees confidentiality and protection of whistleblowers.

The development of legal education and awareness-raising, which is actively supported in Europe, is carried out through programmes that inform about rights and obligations. The rights of vulnerable groups, such as children and migrants, are effectively protected by ombudsmen. Ukraine could adapt this experience by creating new institutions or empowering existing ones to protect the rights of citizens. Integration of European aspects of the rule of law will help reform the Ukrainian legal system, increase the efficiency of justice, transparency of governance, and reduce corruption. An example of ensuring the independence of the judiciary is Germany, where judges are appointed for life by an independent commission, which minimises political influence. In Ukraine, a comparable role is played by Article 76 of the Law of Ukraine No. 1402-VIII "On the Judiciary and the Status of Judges" (2016), which regulates the disciplinary liability of judges for violations of the law and judicial ethics, with possible sanctions ranging from warning to dismissal. Estonia demonstrates successful e-governance experience through the X-Road platform, which simplifies access to public services and reduces corruption risks. Ukraine could consider implementing such a platform to integrate public services.

In the fight against corruption, the example of Italy, where the ANAC operates, can be followed. This agency has broad powers to investigate cases of corruption and oversee compliance with anti-corruption legislation. The ANAC also actively cooperates with civil society organisations and the media to increase the transparency and accountability of public authorities. One significant aspect is the integration of mechanisms of public control and citizen participation in decision-making processes. For example, Switzerland actively uses the mechanism of referendums, which allows citizens to directly influence legislative processes. Ukraine could expand the use of local referendums and public hearings, which would ensure greater citizen participation in key decision-making and increase the level of trust in government institutions. Another example is the practice of the Netherlands in the sphere of social protection and inclusion. The Netherlands has a developed social protection system that provides support to vulnerable groups through financial support, access to education and healthcare. Ukraine could adapt these practices by introducing more effective social support and integration programmes for people with disabilities, pensioners, and other vulnerable groups. France also has an interesting experience in consumer protection. French consumer organisations actively protect the rights of citizens by ensuring the high quality of goods and services and providing legal aid in cases of consumer rights violations. Ukraine could create and support equivalent organisations, which would help to improve quality standards and consumer protection (Federal Department of Foreign Affairs, 2020). Resolution of the European Parliament "On the Sustainable Reconstruction and Integration of Ukraine into the Euro-Atlantic Community" (2023) emphasises the enduring commitments necessary for Ukraine's rebuilding and its trajectory towards European and transatlantic integration. This resolution underscores the imperative of harmonising Ukraine's legal, economic, and security frameworks with European norms, prioritising openness in governance, judicial independence, and structural changes (European Parliament, 2023).

In the UK, parliamentary committees have broad powers to scrutinise government performance. In Ukraine, the powers of such committees could be expanded to increase oversight of the implementation of legislation. Estonia is a leader in digital solutions for justice with e-courts that reduce case processing time. Ukraine is implementing an equivalent system, the Electronic Court, which simplifies the filing of lawsuits and procedural decisions online. The Diia platform also provides citizens with access to a wide range of public services, including court appeals, contributing to Ukraine's digital transformation (Nordic Co-operation, 2022; Motkin, 2023). Ensuring respect for human rights is a critical aspect of the rule of law. Austria has a National Human Rights Council that coordinates the activities of state bodies in the field of human rights and monitors their observance. The Austrian National Human Rights Council and the Ukrainian Parliamentary Commissioner for Human Rights (Ombudsman) are two important institutions that play a key role in protecting human rights in their respective countries. Despite their common purpose, these bodies have distinct structures, powers, and approaches to performing their functions. Table 1 below compares the key features of the two institutions, which offers a better understanding of their specifics and role in the protection of human rights. Thus, the fundamental difference lies in the approach to human rights protection: the Austrian National Council acts as a coordinating and strategic body at the macro level, while the Ukrainian Ombudsman is a responsive and influential body at the micro level, directly responding to individual complaints and having greater capacity to influence concrete cases of human rights violations.

Table 1. Comparative characteristics of the Austrian National Human Rights Council and the Ukrainian Commissioner for Human Rights (Ombudsman)

Criterion	Austrian National Human Rights Council	Ukrainian Commissioner for Human Rights (Ombudsman)
Structure	A collegial body consisting of several members.	A one-person body, decisions are made by one person (the ombudsman).
Representation	Represents various governmental and non-governmental organisations and experts.	Represented by a single representative, the Ombudsman.
Key purpose	Coordination of the activities of state institutions in the field of human rights protection.	Protection of citizens' rights at the individual level.

Criterion	Austrian National Human Rights Council	Ukrainian Commissioner for Human Rights (Ombudsman)
Powers	Focuses on monitoring and recommendations, with limited influence on concrete cases.	Has broad powers to investigate complaints, demand remedial action, and appeal to the courts.
Responsiveness and independence	Multi-level decision-making process, less responsive operations.	High responsiveness and independence in decision-making.
Influence on legislation	Provides recommendations for improving legislation and policy.	Can initiate changes in legislation and influence political decisions.
Influence level	Mostly at the macro level, coordination and strategy.	Mostly at the micro level, direct intervention in concrete cases of human rights violations.

Source: compiled by the authors based on United Nation (2024a; 2024b)

Implementing institutional reforms, increasing transparency and accountability of public administration, actively fighting corruption, developing legal education, and ensuring protection of the rights of vulnerable groups will contribute to building an effective, fair and democratic society in Ukraine. Adopting the best practices and experience of European countries is a crucial step in this regard, enabling Ukraine to effectively integrate European rule of law standards into its legal system (Ukraine Report, 2024). Italy actively uses the open government model, which involves maximum transparency in the activities of public authorities, public access to information, and participation in decision-making processes. This is achieved through regular publication of data on government activities, open meetings with citizens, and electronic platforms for discussing legislative initiatives.

In Ukraine, there is a comparable programme, namely the Order of the Cabinet of Ministers of Ukraine No. 1049-r "On Approval of the Action Plan for the Implementation of the Open Government Partnership Initiative in 2023-2025" (2023), which stipulates the implementation of a set of measures aimed at increasing the transparency of government activities and involving citizens in the decision-making process. The Action Plan focuses on improving citizens' access to information about government processes by expanding access to open data. Active involvement of the public in the development and implementation of public policy through public discussions and consultations is important. Furthermore, the decree aims to improve the fight against corruption by introducing new tools to oversee the use of public resources and increase the effectiveness of anti-corruption bodies. Improving the efficiency of public administration should be the result of innovative technologies, including legislative technique (Vlasenko, 2024). Implementation of these measures will help strengthen public trust in state institutions and improve governance processes in Ukraine.

Another example is Norway, which has a robust system of independent media and civil society that play an important role in monitoring the rule of law. Independent journalists and civil society organisations regularly conduct investigations, expose cases of corruption and other wrongdoing, and inform the public about human rights violations (Swedish International Development Cooperation Agency, 2024; Freedom House, 2024). Ukraine can support the development of independent media and civil society organisations, which will help to increase transparency and accountability of the authorities. Sweden is known for its approach to gender equality, which is integral to the rule of law. Swedish legislation includes mechanisms to ensure equal rights and opportunities for men and women, as well as active support for women in politics and business. The Constitution of Ukraine contains provisions guaranteeing equal rights and opportunities for men and women (Yara & Sologub, 2024). Specifically, Article 24 of the Constitution guarantees equal rights for men and women in all spheres of public life. It stipulates that there can be no privileges or restrictions based on gender, race, nationality, language, religion, or other characteristics. This provision is the basis for ensuring gender equality in Ukraine at the legislative level. To implement these principles, Ukraine has also established the National Social Service of Ukraine, which is responsible for implementing social programmes and policies aimed at supporting vulnerable groups, including women. This service ensures the implementation of state programmes to support gender equality, monitors the situation, provides social services, and coordinates the activities of other government agencies in the field of social protection (UN Women, 2022).

France is actively working on justice system reforms aimed at reducing delays in the consideration of cases and increasing access to justice. Ukraine already has specialised courts, such as administrative and commercial courts (Miliienko, 2023). These courts are designed to consider specific legal issues requiring narrow specialisation, and their work is aimed at reducing delays in court proceedings and improving the quality of justice in Ukraine. Finland is actively implementing a system of mediation as an alternative way to resolve conflicts. Mediation allows the parties to a conflict to reach an agreement without going to court, which considerably reduces court costs and facilitates the prompt resolution of disputes. Ukraine can develop the institution of mediation by creating relevant training programmes for mediators and information campaigns to raise public awareness of the benefits of this method. Finally, developing a child protection system is important. The Netherlands has specialised bodies and programmes to protect children's rights. Expanding existing child support programmes in Ukraine, improving cooperation between state and civil society organisations working on children's rights, and establishing specialised institutions to protect children's rights are possible. These examples illustrate how different European countries uphold the rule of law, which could be adapted to Ukraine. Integrating such practices will increase the effectiveness of the legal system, ensure transparency and accountability of the government, reduce corruption and protect the rights of citizens.

One of the key areas is the development of a system of independent monitoring and auditing of government agencies. In the UK, the National Audit Office operates to provide independent financial control over government activities and ensure transparency in the use of public funds. Ukraine

has the State Audit Service of Ukraine, which controls the use of public funds and property. Its powers include financial audits of state-owned enterprises, institutions, state authorities, and local governments, as well as scheduled and unscheduled inspections. This increases public trust in the government and reduces the risk of corruption through transparency and efficient use of public resources (Ferry *et al.*, 2022). Iceland uses technology to ensure transparency and engage citizens in decision-making through an e-voting platform. Ukraine can implement equivalent solutions to discuss critical issues at the national and local levels. Norway has a successful track record in environmental justice through specialised courts and strict legislation. Ukraine could establish environmental courts and strengthen laws to protect the environment. Ireland is known for its effective regulation of personal data, which could serve as an example for improving Ukrainian legislation in this sphere (Kapsa *et al.*, 2021).

The Razumkov Centre's (2024) report showed the dynamics of public attitudes in Ukraine towards international partners and EU accession. Over 60% of respondents have a positive attitude towards the EU, about 55% – towards the US, while negative attitudes towards Russia exceed 70% due to the war and occupation of Crimea. Support for joining the EU is 65%, and for NATO – 55-60%, indicating a desire for European integration and security through cooperation with NATO against the backdrop of Russian aggression. Among foreign politicians, the leaders of Germany, France, and the United States enjoy the greatest support in Ukraine, thanks to their economic and military aid and support for Ukraine's territorial integrity (Jeong *et al.*, 2024). Support for Ukraine's accession to the EU stays consistently high, with about 65% of Ukrainians wanting integration with Europe, hoping for economic improvement and higher living standards. Growing support for the European course among young people indicates a long-term trend towards integration with the EU (Åslund, 2023).

According to the Law of Ukraine No. 1798-VIII "On the High Council of Justice" (2016), the HCJ is an independent body that ensures the formation of an integrity of the judiciary. The HCJ is empowered to appoint and dismiss judges, bring them to disciplinary liability and decide on their detention. The HCJ is composed of 21 members elected by different branches of government and the legal community, which ensures its balance. This law contributes to the reform of the judicial system, strengthening the independence of judges and increasing confidence in the judiciary, in line with European standards of justice.

The Law of Ukraine No. 1402-VIII "On the Judiciary and the Status of Judges" (2016) defines the legal framework for the operation and organisation of courts, as well as the status of judges in Ukraine. It stipulates the independence of the judiciary, increasing its efficiency and accountability. The Law defines the rights and duties of judges, as well as guarantees of independence, and procedures for appointment, transfer, and dismissal. Furthermore, it establishes a new system of judicial governance, including the HCJ and the High Qualification Commission of Judges of Ukraine, which is responsible for the selection, appointment, and evaluation of judges, as well as for the consideration of disciplinary cases against judges. This law was important for the study as it offers a clear understanding of the functioning of the Ukrainian judiciary and its compliance with European standards. It demonstrates Ukraine's efforts to strengthen the independence of the judiciary and implement institutional reforms. It also offers concrete legal mechanisms and institutions that can be used in other countries to improve their judicial systems. The Law of Ukraine No. 1700-VII (2014) is the key regulation governing the prevention of corruption in Ukraine. It defines the legal and organisational framework for the functioning of the corruption prevention system, establishes rules and restrictions for civil servants and officials, as well as mechanisms for control and liability for corruption offences. The law establishes the obligations of public officials to prevent corruption offences and requires the declaration of income, property, and financial liabilities.

The introduction of specialised anti-corruption bodies, such as the National Agency for the Prevention of Corruption, enabled the government to strengthen control over compliance with anti-corruption legislation and verify officials' declarations. The law became important for the study as it demonstrated the state's efforts to strengthen the anti-corruption infrastructure, transparency, and accountability. It also helped to assess the effectiveness of anti-corruption mechanisms and their compliance with international standards, as well as to identify challenges in building an effective anti-corruption system.

Conclusions

This research analysed the potential for enhancing Ukraine's legal system in accordance with European norms and practices. Three principal theoretical frameworks on the rule of law in Europe were recognised. The normative approach underscores the primacy of legal principles, equality under the law, and the safeguarding of basic rights. The institutional approach emphasises the significance of autonomous judiciary bodies, law enforcement entities, and governance frameworks in guaranteeing legal adherence and mitigating power abuses. The cultural perspective emphasises the impact of legal consciousness, public confidence, and civic participation in reinforcing the rule of law. These methodologies jointly influence the legal frameworks of European nations, guaranteeing the stability and efficacy of their legal systems.

Several legal ideas significantly enhance stability and democratic progress. Judicial independence prevents political influence in legal determinations, but the separation of powers establishes checks and balances within governance. Mechanisms of transparency and accountability, such as open government programs and public oversight, increase trust in institutions. Robust anti-corruption frameworks, bolstered by autonomous investigative entities, enhance the integrity of public administration. The application of these ideas has been crucial in promoting enduring democratic stability among European nations. The historical development of the rule of law in Europe has profoundly influenced contemporary legal norms. Significant advancements, including the implementation of constitutional government, the safeguarding of fundamental rights, and the acceptance of international legal frameworks, have established a benchmark for modern legal changes. The incorporation of European legal principles into national frameworks has established a paradigm for fostering competent legal institutions, especially in transitional democracies.

In Ukraine and Europe, several changes have been crucial in enhancing judicial independence, augmenting openness in public administration, and addressing corruption.

Judicial reforms in Ukraine have encompassed the reorganisation of the judiciary, the improvement of judge selection and discipline procedures, and the creation of specialised anti-corruption tribunals. The implementation of digital governance technologies and e-justice systems has enhanced access to legal services and diminished bureaucratic inefficiencies. European nations have enacted such measures to improve legal integrity. The creation of independent judicial selection committees, computerised case management systems, and strong anti-corruption agencies has enhanced government transparency and accountability. Countries with robust rule-of-law traditions have shown that enduring legal changes, coupled with citizen participation and institutional supervision, result in more durable legal systems.

Future research should on assessing the enduring efficacy of Ukraine's legislative changes in conforming to European norms, especially on judicial independence, openness, and anti-corruption initiatives. Moreover, comparative analyses of the implementation of digital governance and e-justice systems across various legal frameworks may yield insights into optimal practices for the continued modernisation of Ukraine's legal system.

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Conflict of interest

None.

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Значення європейського розуміння верховенства права для розвитку сучасної демократичної держави: теоретико-історичний аспект

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Анотація. Метою цього дослідження було вивчення потенційних шляхів вдосконалення правової системи України з використанням європейських стандартів і практик. У ході дослідження було проаналізовано історію становлення верховенства права в Європі, проведено порівняння правових систем, вивчено правові реформи в Україні, проаналізовано статистичні дані та визначено основні проблеми української правової системи. Було виявлено, що хоча Україна зробила значні кроки в напрямку запобігання корупції з моменту здобуття незалежності, правова система країни все ще потребує значних змін. Також було виявлено, що сучасний стан європейського верховенства права демонструє змішані тенденції. З одного боку, такі країни, як Данія, Норвегія, Фінляндія, Швеція та Німеччина продовжують утримувати провідні позиції у світових рейтингах верховенства права та антикорупційних заходів, демонструючи стабільні результати щодо захисту фундаментальних прав, правозастосування та дотримання законів. З іншого боку, такі країни, як Польща та Угорщина, почали демонструвати значний рівень корупції та політичної нестабільності, продовжуючи займати низькі позиції у світових рейтингах. Встановлено, що найбільший вплив на розвиток сучасної української демократичної держави з точки зору європейського розуміння верховенства права мали Німеччина, зокрема її досвід реформування правової системи після Другої світової війни; Швеція, а саме моделі прозорості та громадського контролю; Фінляндія та Данія з їхніми підходами до правоохоронної діяльності та дотримання законів, а також антикорупційних заходів. Крім того, ці країни не лише демонструють успішні моделі верховенства права, а й активно підтримують Україну у впровадженні таких стандартів через різні програми технічної допомоги та експертні консультації

Ключові слова: верховенство права; доброчесність; державні інститути; реформи; політична система

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The interplay between matrimonial property regimes and commercial law in Albanian legislation: Influences from the Italian Civil Code

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Abstract. The study explored legal inconsistencies in Albania's matrimonial property and commercial law, where differing traditions create uncertainty in classifying business assets acquired during marriage, impacting spouses' rights and creditor claims. The purpose of research was to identify the applicable law on the commercial activities started and/or managed by each spouse during marriage, as well as to investigate the inconsistencies between family and commercial legislation. The study employed a comprehensive legal research methodology, integrated desk legal analysis, case law examination, comparative study, and doctrinal legal research, with a particular focus on analysing national and foreign legislation, judicial decisions from the Albanian and Italian High Courts, and academic legal doctrine to assess the intersection of matrimonial property and commercial law. The study analysed the Family Code of Albania and the Law on Entrepreneurs and Commercial Companies. These two sets of legislation were enacted at different times and are based on distinct legal models. The study demonstrated that, they lack coordination, making their practical application challenging for Albanian courts. Additionally, it examined the influence of the Civil Code of Italy on the Albanian legislation regarding the regulation of the matrimonial property regimes. Although the community property regime is modelled after Italian law, there are some differences between the two legal systems when it comes to commercial activities established during marriage. The study lays the groundwork for legal reforms to harmonize matrimonial property and commercial law in Albania, ensuring clarity in business asset distribution

Keywords: marriage; community of acquisitions; spouses' party autonomy; entrepreneur; commercial company

Introduction

The core issue in this research lies in the insufficient examination of the intersection between matrimonial property regimes and commercial law in Albania. This gap is particularly significant because the two legal domains family law and commercial law have been shaped by different legal traditions, leading to potential inconsistencies in their application. While Albania's Family Code, enacted in 2003, is rooted in the Italian and French civil legislation, the country's commercial law, introduced in 2008, follows principles derived from English law. These divergent legal foundations create challenges in reconciling the rights and obligations of spouses within both the domestic and business spheres. A key issue arises when married individuals engage in commercial activities, particularly in cases where one or both spouses own or manage businesses. The uncertainty regarding whether business assets acquired during marriage fall under the community of acquisitions regime or remain the separate property of the operating spouse can lead to legal disputes. For instance, in the absence of a clear legal framework, creditors seeking to recover debts from a business owned by one spouse may face difficulties in determining whether the other spouse's assets can be used to satisfy financial obligations (Scherpe, 2023). In the event of divorce, the classification of business assets whether they should be equitably divided or remain under individual ownership becomes a contentious issue.

Another problematic scenario involves the participation of both spouses in business activities. If a couple operates a

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jointly owned enterprise, the lack of harmonisation between commercial and family law can create legal uncertainty regarding decision-making powers, financial liabilities, and profit distribution. For example, if one spouse claims ownership over company shares due to the principles of the matrimonial property regime, but commercial law prioritises formal registration and contractual agreements, conflicts may arise regarding rightful ownership and control (Niculescu, 2019; Alqsass *et al.*, 2023). The need for resolving these inconsistencies is pressing because unresolved legal ambiguities can lead to prolonged litigation, financial insecurity, and difficulties in business transactions. Given that commercial activity is a key driver of economic growth, ensuring legal clarity in matters of business ownership and liability within marriage is crucial for fostering both economic stability and family law coherence. Addressing this issue requires a comprehensive legal review to align matrimonial property regulations with commercial law provisions, ensuring that both individual and shared financial interests are adequately protected within Albania's legal system.

W. Pintens (2021) explores the fundamental principles of matrimonial property regimes in civil law jurisdictions, emphasising the existence of mandatory rules that ensure the participation of both spouses in household expenses and debts, known as régime primaire. This study provides a comparative analysis of matrimonial property systems across different legal traditions, identifying the default regimes in various countries. The research highlights that while most Romanic law jurisdictions, such as France, Italy, Belgium, Spain, and Portugal, have adopted the community of acquisitions as the default property regime, Germanic legal systems, including Germany, Austria, and Nordic countries, follow a participation in acquisitions model. Author concludes that these regimes, despite their variations, share the common objective of ensuring fairness in property distribution between spouses, particularly in cases of marital dissolution.

D. Eskanazi and I. Amar (2020) examine the absence of matrimonial property regimes in common law jurisdictions and how the financial consequences of divorce are instead determined by judicial discretion. Their research contrasts the predictability of property distribution in civil law systems with the flexibility of common law courts, which take into account various factors such as the financial needs of each spouse and the overall fairness of the settlement. The authors argue that while common law systems do not impose predefined property-sharing mechanisms, judicial intervention serves as an alternative means of achieving equitable outcomes in marital property disputes.

T. Nuts *et al.* (2022) focus on the role of matrimonial property regimes in protecting economically weaker spouses. Their studies analyse the function of the community of acquisitions and participation in acquisitions regimes, demonstrating how these frameworks are designed to ensure an equitable distribution of wealth accumulated during marriage. They argue that by balancing principles of individual ownership with mechanisms for wealth-sharing, these regimes provide a safeguard against economic disparity upon divorce. Their findings underscore the importance of matrimonial property laws in addressing financial vulnerabilities and reinforcing economic stability within families.

E. Qarri and Xh. Kadi (2024) specifically investigate Albania's matrimonial property laws, situating them within the broader civil law tradition. Their research contextualises the adoption of the community of acquisitions regime in Albania, explaining that this choice reflects the country's socio-economic conditions and legal heritage. They analyse how the default legal framework regulates financial relationships between spouses, ensuring shared ownership of assets acquired during marriage unless a marriage contract specifies otherwise. Their findings highlight the alignment of Albania's legal approach with broader European civil law trends while also acknowledging the country's specific economic and social context as a determinant of its regulatory choices.

From a structural point of view, the legal community is a partial community (Tsvigun, 2024). As analysed by S. Omari (2015), based on the moment that the property acquired by spouses during marriage falls into the community, the community property is divided in two groups: current or immediate community and eventual or deferred community. In Albanian legal doctrine there are very few contributions regarding the legal regime of commercial activities under the community of property regime. A. Malltezi (2018) has conducted an in-depth exploration of the intersection between matrimonial property regimes and commercial law in Albania, focusing specifically on the interpretation and scope of Article 74(ç) of the Family Code (2003). This provision concerns the classification of business assets within the matrimonial property framework, raising the question of whether it applies universally to all forms of enterprises or is intended solely for sole proprietorships. This analysis critically examines the legislative intent behind this article, highlighting ambiguities in its wording and the potential consequences of different interpretations for spouses involved in business activities.

The purpose of the study was to analyse the current legislation governing entrepreneurial activities started by spouses during marriage and to identify the problems arising from the interaction of family and commercial law in Albania. The objectives of the study were as follows:

1) to evaluate the challenges faced by Albanian judges in interpreting and applying legislation on property relations of spouses in the field of entrepreneurship;

2) to investigate the relationship between family and commercial law in the context of regulating spouses' entrepreneurial activities;

3) to determine the degree of influence of the Civil Code of Italy (1942) on the provisions of the Albanian Family Code regulating property relations of spouses.

Materials and methods

This paper employed a comprehensive research methodology that integrates multiple dimensions, including desk research, legal analysis, case law examination, and comparative study. The approach involved analysing relevant national laws alongside foreign legislation from traditional civil law jurisdictions. The Albanian legal framework referenced in this study includes the Constitution of the Republic of Albania (1998), the Civil Code of the Republic of Albania (1994), the Family Code of Albania (2003), and the Law of Albania No. 9901 "On Entrepreneurs and Commercial Companies" (2008). The analysis examined Decision of the Civil College of the High Court of Albania No. 340 (2012), that highlighted the divergence in judicial interpretation. The minority opinion in this case argued for a narrow interpretation of commercial activity, limiting it to sole proprietorships, whereas the majority view included shares in

commercial companies as part of the legal community. This decision set a precedent for subsequent cases, shaping the way Albanian courts approach the classification of business assets in divorce proceedings.

Another landmark case analysed in this research concerns the ownership of shares in Top Channel JSC (2017), a company founded during marriage by one spouse. The High Court ruled that, despite the formal registration of the company under one spouse's name, the shares acquired during marriage fell within the scope of the legal community, as per Articles 66, 73, 74, and 75 of the Family Code of Albania (2003). This ruling reinforced the principle that profits and business assets obtained during marriage are subject to division unless explicitly excluded by a prenuptial or marital contract. The research further examines the practical challenges that judges face in interpreting these provisions, particularly when the commercial activities in question involve complex business structures such as joint-stock companies or partnerships. Given the inconsistencies in prior rulings, this study underscores the need for clearer legislative guidelines to harmonize the application of family and commercial law.

Firstly, the study analysed the principle of freedom of economic activity foreseen by the Constitution of the Republic of Albania (1998), which was the main legal document that governed fundamental rights and freedoms of citizens. The aim of this analysis was to determine whether the Family Code of Albania (2003) provisions, which included in the community property all commercial activities started by spouses during marriage, violated the freedom of economic activity. Then, the Family Code of Albania (2003), which governed the matrimonial property regimes and the financial consequences of the dissolution of marriage, was analysed. Special attention was given to the default regime, the community of property regime. This regime governed the commercial activities that were started by each spouse during marriage. The next legal act that was analysed in the research was the Law of Albania No. 9901 "On Entrepreneurs and Commercial Companies" (2008). This act governed the establishment, operation, management, and reorganization of entrepreneurs and commercial companies in Albania. The analysis of these acts showed that there was a lack of coordination between them regarding the commercial companies started by spouses during marriage. To gain a deeper understanding of the Family Code of Albania (2003) norms regarding matrimonial property regimes, the Civil Code of Italy (1942), on which the Family Code of Albania (2003) was modeled, was analysed. It was important to note that the comparative analysis served to enhance comprehension and implementation of the legal community regime, which was the most commonly used regime by spouses in practice. An additional methodology used in this research was doctrinal legal research, which involved examining the primary legal sources mentioned above to identify legal principles, legal ambiguities, and inconsistencies, and to clarify the application of the law in practice. In this paper, the legal doctrine settled in academic works, legal commentaries, and judicial opinions was used. The academic works of Italian and Albanian legal scholars were mostly used, without disregarding the academic works of other European countries' scholars, whose default regime was the community property. Moreover, the paper used the case law method. The research extensively analysed the jurisprudence of Albanian and Italian Courts to enrich the analysis and provide practical insights into the application of legal principles. In particular, the research took into consideration the case law of the High Courts of both countries.

Results

The term matrimonial property regime refers to the totality of legal norms that govern the property relations between spouses and their property relations with third parties during marriage. There are different types of matrimonial property regimes, such as separation of property regime, community of acquisitions regime, participation in acquisitions regime and universal community regime. The legal position of these regimes differs from one European country to another. The Family Code of Albania (2003), within the framework of the legal community property regime, establishes specific rules governing the commercial activities of spouses. These rules govern the commercial activities started by spouses during marriage (Article 74 para. 1 (ç)), the commercial activities which, although started before marriage, are managed by both spouses during marriage (Article 74 para. 2), the commercial activities started before marriage when community assets are used for their management (Article 75), and the legal regime of work instruments exclusively required for the needs of each spouse's profession (Article 77 (ç)).

The term commercial activity used by Family Code of Albania (2003) is very broad, therefore there is a need to clarify its meaning. While the Law of Albania No. 9901 "On Entrepreneurs and Commercial Companies" (2008) does not explicitly define the concept of commercial activity, it provides a non-exhaustive list of activities deemed commercial. These activities fall into two categories: entrepreneurial activities and commercial activities organised as commercial companies, such as limited partnerships, general partnerships, limited liability companies, and joint stock companies. An entrepreneur is defined as a natural person engaged in independent economic activities requiring standard commercial organisation. Furthermore, Article 2, paragraph 2, of the Law of Albania No. 9901 "On Entrepreneurs and Commercial Companies" (2008) specifies that individuals pursuing independent activities (e.g., lawyers, notaries, brokers, accountants, doctors, engineers, architects, or artists) are considered entrepreneurs if the specific law governing their profession grants them this status (Dine & Blecher, 2008). A natural person who carries out agricultural or forestry activities will also be considered an entrepreneur if his activity is mainly focused on the processing and sale of agricultural or forestry products. Also, the term commercial activity includes simple companies started according to the provisions of the Civil Code of the Republic of Albania (1994). According to Albanian jurisprudence, the concept of commercial activity essentially includes any type of profitable activity that requires a certain form of organisation of a natural or of a legal person.

The Family Code of Albania (2003) just like the commercial legislation, does not define commercial activities. Therefore, it is necessary to analyse what the legislator means by using this concept. The concept of commercial activity foreseen by the Family Code of Albania (2003) should be interpreted in line with the commercial legislation, which is the specific law governing this issue. However, there are different opinions in Albanian jurisprudence. In the minority opinion of Decision of the Civil College of the High Court of Albania No. 340 (2012), the concept of commercial activity

provided by Article 74 para. 1 (ç) of the Family Code of Albania (2003) is defined narrowly than the Law of Albania No. 9901 "On Entrepreneurs and Commercial Companies" (2008), including only "entrepreneurs", and not commercial companies.

The contention focused on whether shares obtained by one spouse during the marriage could be classified as separate property. The claimant contended that the shares, formally registered in their name and independently managed, should be excluded from the marital estate; nonetheless, the majority determined that commercial assets acquired during marriage – unless expressly excluded by contract – are deemed community property. The case determined that stakes in commercial enterprises can be included in the community property system if obtained during the marriage. The minority view contended that commercial entities ought to be distinguished from personal property. Nonetheless, the majority elucidated that business assets are liable to division unless expressly stipulated otherwise. The court underscored that both active and passive interests in commercial entities, including shareholdings, are jointly owned under matrimonial property law, unless clearly delineated by written agreement. This verdict has subsequently functioned as a standard in adjudicating commercial ownership disputes in divorce proceedings.

Even if it is accepted that only the entrepreneur is the material object of the application of Article 74 para. 1 (ç) of the Family Code of Albania (2003) nothing prevents the inclusion of the shares of commercial companies started during marriage by one or both spouses, or shares acquired by the spouses through legal transactions, within the scope of Article 74 para. 1 (a) – a property acquired by one or both spouses, jointly or separately, during marriage. Albanian jurisprudence has also embraced this position. In the aforementioned decision, the Civil College of the High Court held the position that the shares of limited liability company and joint stock company started during marriage by both spouses (Wisdom Ltd. and Wisdom 1 Ltd.) are part of the legal community.

In a later decision, the Civil College of the High Court assessed that, in accordance with articles 66, 73, 74, 75, and 76 of the Family Code of Albania (2003) the shares of the commercial company "Top Channel JSC" (2017) are included in the legal community regime. The company was started during marriage in the form of a limited liability company by the husband, who owned 100% of the shares. The company was then transformed into a joint-stock company during the marriage. The case underscored that share in a joint-stock company founded during marriage are part of the legal community, regardless of whose name is on the registration. The ruling reinforced the idea that business profits obtained during marriage belong to both spouses, advocating for economic fairness in divorce settlements.

The dispute arose when one spouse, founder of Top Channel JSC during the marriage, claimed exclusive ownership of the company's shares based solely on formal registration. The other spouse argued that, since the company was established and operated during the marriage, its shares and related income should be deemed marital property. The court ruled in favour of the latter, holding that business assets acquired during marriage belong to the marital estate unless explicitly excluded by a formal agreement. This decision, which extends to dividends and profits, established that both direct and indirect contributions to a business must be equitably distributed in divorce proceedings, setting a precedent to prevent asset concealment through corporate arrangements.

From the analysis of the provisions governing the legal community, it results that articles 74 para. 1(ç), 74 para. 2, 75, and 77 (ç) are more suited to commercial activities organised in the form of "entrepreneur", as defined in Article 2 of the Law of Albania No. 9901 "On Entrepreneurs and Commercial Companies" (2008). The study draws this conclusion from the terminology used by the legislator, namely management by both spouses, community property assigned to the management of a commercial activity, means of practicing the profession other than those designated for the management of a commercial activity. This is due to the adaptation of articles 74, 75, and 77 of the Family Code of Albania (2003) with articles 177, 178, and 179 of the Civil Code of Italy (1942), whose provisions are translated literally. The terms "azienda coniugale and azienda gestita da entrambi i coniugi" have been translated and adapted in the Family Code of Albania (2003) as "commercial activity". According to Italian doctrine, these terms refer only to the commercial activity developed in the form of an entrepreneur and are not applicable to commercial companies.

The first factor to determine if a commercial activity is considered personal or community property is whether the activity started before or during marriage. Based on a combined interpretation of articles 74 para. 2 and 77 (a) of the Family Code of Albania (2003) results that the commercial activities established before marriage by each spouse or the participation rights of each spouse in these activities are personal property. According to Article 74 para. 1 (b) of the Family Code of Albania (2003), the profits acquired during marriage from the commercial activity of one spouse are part of the community only if unconsumed at its end.

There can be commercial activities that are started by one spouse before marriage and jointly managed by both of them during marriage. In this case, while the commercial activity remains separate, the community includes the profits and the additional output (Article 74 para. 2 of the Family Code of Albania (2003)). The profits and the increase in the production of the commercial activity realised during the time of the jointly management of the activity, are part of the current community, which means that they are joint property from the moment of their acquisition. The legislator uses the term commercial activity that is managed by both spouses during marriage (Scherpe, 2022). It is not clear what does the legislator mean by the term management, which is a term that does not appear in the provisions of the Law of Albania No. 9901 "On Entrepreneurs and Commercial Companies" (2008) or in the provisions of the Civil Code of the Republic of Albania (1994).

Since Article 74 of the Family Code of Albania (2003) is modelled after Article 177 of the Civil Code of Italy (1942), it is essential to consult Italian legal doctrine for its proper interpretation. Article 177 (d) of the Civil Code of Italy (1942) uses the term company managed by both spouses – joint management (azienda gestita da entrambi i coniugi – gestione congiunta). According to Italian doctrine, the term joint management is a matter of fact, and it is not formally related to the spouse in whose name the commercial activity is registered. Joint management refers to the factual situation, in which both spouses perform managerial functions

in the commercial activity, make decisions on investments, on the division of profits, and in general perform any material or legal action, both within the activity and in relation to third parties (Cosenza, 2020). The term management of the commercial activity refers to the participation of the non-owner spouse in decision-making activities in the company that also brings responsibility such as, i.e., the function of the administrator of the commercial company (Santosuosso, 1984). Joint management must be distinguished from the case where one spouse is employed in the commercial activity of the other spouse. If the non-owner spouse during marriage was employed, based on an employment contract in the commercial activity of the other spouse, e.g., as a secretary, financier, lawyer, etc., this employment activity will not be considered as "management" (Santosuosso, 1984).

Based on Article 74 para. 1 (ç) of the Family Code of Albania (2003), any commercial activity started during marriage by one of the spouses immediately becomes part of the legal community, making the other spouse a co-owner in equal shares with the founding spouse. Naturally, the question arises whether this legal arrangement contradicts Article 11 of the Constitution of the Republic of Albania (1998), which regulates free economic initiative. According to Article 11 para. 1 of the Constitution of the Republic of Albania (1998) "The economic system of the Republic of Albania is based on private and public property, as well as on the market economy and on the freedom of economic activity". Also, according to the third paragraph of Article 11 of the Constitution of the Republic of Albania (1998) "Restrictions on the freedom of economic activity can only be imposed by law and only for important public reasons".

Analysing this provision on a comparative basis with Article 177 of the Civil Code of Italy (1942), it is noted that, in contrast to the Family Code of Albania (2003), according to which any commercial activity started during marriage by one spouse is included ipso jure in the legal community; the Civil Code of Italy (1942) provides that only those commercial activities started by one spouse constant matrimonii, which are jointly managed by both spouses, are included in the legal community. Thus, its law provides joint management as an essential condition for the inclusion of the commercial activity started during marriage by one spouse in the legal community.

From the first reading of Article 74 para. 1 (ç) of the Family Code of Albania (2003), it is evident that the legislator has explicitly regulated the commercial activity started during marriage. The first element worth discussing is what the legislator means by the term started during marriage. A dilemma arises whether this provision refers only to commercial activities established by one or both spouses during marriage or includes the case of commercial activities started by other persons but acquired by one spouse during marriage (Dine & Blecher, 2008). The same dilemma is raised by the Italian legal doctrine referring to Article 177 (d) of the Civil Code of Italy (1942).

Due to the intertwining of the spouses' financial interests, it is common for community property to be used in the management of one spouse's commercial activities. According to Article 75 of the Family Code of Albania (2003), if during marriage the property of the legal community is used for the management of the commercial activity of one spouse, then this property as well as the additional output of the commercial activity (extras) are included in the community, if they are unconsumed at its end (co-ownership between spouses). In this context, the commercial activity belongs to one spouse, while at the end of the community the other spouse is entitled to only ½ part of the community property used for the management of the commercial activity and to the ½ part of the additional output and has no right to participate in the commercial activity (Niculescu, 2019).

From the point of view of legislative technique, Article 75 is positioned in Chapter II of Title III of the Family Code of Albania (2003) between Article 74 (composition of the legal community) and Article 77 (category of personal property). This provision includes that category of assets that, although acquired during marriage, are not immediately included in the community. They are included in the community only if they are unconsumed at its end. This Article must be interpreted in close connection with articles 74 para. 1 (ç), 74 para. 2, and 77 (ç) of the Family Code of Albania (2003). The purpose of the provision is to protect the free economic initiative of the entrepreneurial spouse, to guarantee the organisation and decision-making in the commercial activity of the entrepreneurial spouse, independently of the will of the other spouse, even though community property is used for the management of this activity.

While reading Article 75 of the Family Code of Albania (2003), it becomes clear that the term "property designated for the management of the commercial activity of one spouse" requires further clarification. Since Article 75 is based on Article 178 of the Civil Code of Italy (1942), the Italian doctrine provides valuable insights into this concept. According to the Italian legal doctrine, for an asset to be considered assigned to the management of a commercial activity, two conditions must be met. First, the property must have been acquired with the intention of using it for the management of the commercial activity. The manner in which the spouse manifests this intention is not important; what matters is proving that the property was acquired with this purpose in mind, such as if the property is used immediately after its acquisition for managing the commercial activity. Including this asset in the category of eventual community constitutes a derogation from the general rule established by Article 74 para. 1 (a) of the Family Code of Albania (2003). The burden of proof that the asset has been used for the management of the commercial activity belongs to the person with an interest in the case, namely the entrepreneurial spouse or creditors. Second, the asset must be suitable for use in the commercial activity for which it was acquired, although it is not necessary for the property to be indispensable for the activity. Assets designated for the management of a commercial activity can include both corporeal and non-corporeal items.

The property acquired during marriage with the intention of using it for the management of the activity of one of the spouses falls into the category of eventual community (Article 75 of the Family Code of Albania (2003)). This qualification is important in terms of the legal regime to which this property will be subject during marriage. As part of the eventual community the entrepreneurial spouse retains all rights of management and free disposal of this property, without the need to obtain the consent of the other spouse.

Another aspect of Article 75 of the Family Code of Albania (2003) that needs to clarify is the term additional output of the commercial activity. According to the Italian doctrine, the additional output of the commercial activity is the net

added value of all the assets of the commercial activity, at the time of the end of the community, in relation to the value that these assets had at the time that the community's property was used for the management of this activity. From the community will be excluded the added value of the assets of the commercial activity, which is not related to the use of the property of the community, but it is related to other reasons, such as: other investments made with capital borrowed from the bank, the geographical position of the exercise of the commercial activity, the change in the value of the currency, etc. (Tega, 2024). Since in many cases it is difficult to prove the cause of the additional output, the doctrine is of the opinion that the burden of proof falls on the entrepreneurial spouse. If the cause of the additional output cannot be proven, it is presumed that the increase is attributed to the utilisation of the community property.

Another aspect of Article 75 to discuss, is the legal nature and content of the rights that the community has at the time of its dissolution over the property of the community used for the management of the commercial activity and its additional output. There are debates in the legal doctrine whether the property used for the management of the commercial activity falls into the community, or the community has only a right of credit over the entrepreneurial spouse, i.e., the right to be compensated with the value of this property updated with the market price, while the asset itself remains the property of the commercial activity (Dyduch *et al.*, 2024). The authors who support the thesis that the community has only a credit right, base their thesis on three arguments: a) the need to guarantee the entrepreneurial spouse the freedom of economic activity even after the end of the legal community; b) the need to protect the non-entrepreneurial spouse from the creditors of the commercial activity; c) the need to recognize to the community a right of the same nature both on the wealth of the commercial activity and on its additional output.

On the other hand, starting from the literal interpretation of Article 75 of the Family Code of Albania (2003), most of the authors think that the community will include the property of the community that was designated for the management of commercial activity and not a credit right on its value. According to the same authors, at the end of the community, on the condition that are unconsumed, the following properties shall be subject to the spouse's joint ownership: the property of the community assigned to the management of the commercial activity of one spouse and the additional output of the commercial activity. The inclusion in the legal community of the property of the community assigned to the management of the commercial activity of one spouse and the additional output of the activity can potentially damage the creditors' interests. On the one hand, it can damage the creditors' interests or put into question their confidence in the managerial abilities of the entrepreneurial spouse, and on the other hand, it can put at risk the very continuity of the commercial activity, if, at the time of the division of the community, there is not enough liquidity to compensate the non-entrepreneurial spouse.

Article 77 (ç) of the Family Code of Albania (2003) governs the necessary work instruments for exercising the profession of one of the spouses, besides those designated for the management of a commercial activity. According to this article, these work instruments are personal property, except those assigned to the management of a commercial activity. From the contrary interpretation of this provision, it results that the work instruments that serve for the exercise of the profession of one spouse but are assigned for the management of a commercial activity, are not personal property. They are included in the legal community (Semprini, 2024). According to legal doctrine, the term profession encompasses not only the liberal professions, provided that the practice of the profession is not classified as a commercial activity, but also a profession that is exercised repeatedly, both independently and in the form of a dependent work relationship, i.e.: a lawyer or an architect, who is employed with a monthly salary in a law firm or an architectural firm (Radice, 1997). The concept of profession should be distinguished from the concept of commercial activity, especially when the latter is realised in the form of an entrepreneur and includes the exercise of the professional skills of one spouse.

The concept of profession is believed to include any professional activity of each spouse, provided that the activity is not considered a commercial activity by the special law regulating the exercise of the profession. Consequently, it will not include liberal professions, such as that of a lawyer, notary, accountant, broker, real estate broker, accounting expert, architect, etc. According to Albanian legislation these professional activities are considered commercial activities, because the laws that regulate the exercise of these professions require their registration at the National Business Centre, in order to equip them with the identification number of the commercial person.

Another aspect of Article 77(ç) to discuss is whether the concept commercial activity refers only to a commercial activity started during marriage (which is part of the community) or it includes also an individual activity of one spouse. For better understanding of this disposition, reference must be made to the corresponding provision in the Civil Code of Italy (1942), specifically Article 179 (d). According to this article, it is not considered personal property "the property destined for the management of a commercial activity which is part of the legal community" (The following do not constitute the object of the community and are personal property of the spouse: d) property used for the exercise of the spouse's profession, except for property used for the operation of a business forming part of the community). This is the only logical interpretation of the Article 77 (ç) of the Family Code of Albania (2003). If Article 77 (ç) were to refer to the individual commercial activity of one spouse, then the work instruments used for managing the commercial activity of the entrepreneurial spouse would also be considered personal.

Discussion

After the fall of the communist state in 1991, Albanian legislation underwent a total reformation, due to the change of the socioeconomic background of the country. These changes aimed to align Albanian legislation with the principles of the free market economy, rule of law, democratic state, and protection of fundamental human rights and freedoms. The family legislation has also had a significant transformation, with the introduction of the new Family Code of Albania (2003). The explicit regulation of spouses' commercial activities within the framework of the legal community property regime represents an innovation in the Family Code of Albania (2003), aimed at protecting the economically weaker spouse. Despite this positive intention, the legislator has disregarded the impact that the inclusion of

commercial activities in the community of property would have on their functioning, and in general the freedom of economic activity of the entrepreneur spouse. Without undermining the principle of marital solidarity, the research highlights the importance of coordinating the commercial interests of the business with the property interests of the family and each spouse. The study proposes viable solutions for addressing issues related to the dissolution of marriage and the division of property that includes commercial activities. The proposed solutions focus on legal mechanisms to harmonize these interests.

The study finds that the concept of commercial activity used by the Family Code of Albania (2003) is broad, which can lead to inconsistent interpretation and application of community property rules by legal scholars and practitioners. In contrast to this finding, the dissenting judges of the Decision of the Civil College of the High Court of Albania No. 340 (2012) argue that Article 74 (ç) of the Family Code of Albania (2003) is limited only to entrepreneurs, excluding commercial companies. This study disagrees, arguing that as long as the legislator has not made such restrictions, neither can the interpreter of the law. This position is also supported by A. Malltezi (2018). In conclusion, the study argues that, according to articles 74 para. 1 (ç), 74 para. 2, 75, and 77 (ç) of the Family Code of Albania (2003), the notion of commercial activity includes any commercial activity, regardless of its legal structure: entrepreneur, commercial companies, and simple partnerships. Therefore, the concept of commercial activity used by the Family Code of Albania (2003) should be interpreted in line with commercial legislation.

E. Qarri and Xh. Kadi (2024) address the complex issue of aligning matrimonial property regimes with commercial law, highlighting the challenges posed by the fact that these two areas of law are built on different legal models and were developed in separate timeframes. They argue that the interpretation of these laws must strike a delicate balance between several competing interests: protecting the property rights of the family, upholding the entrepreneurial spouse's constitutional right to economic freedom, and ensuring the protection of creditors' rights. They emphasize the importance of considering the broader economic stability of the country when interpreting these laws.

The study agrees with T. Duell-Cases (2024), who states that one of the factors to classify the commercial activity of one spouse as separate or community property is whether the activity started before or during marriage. If the commercial activity started before marriage, it is personal property of the entrepreneur spouse (Yakymenko, 2023). However, if the activity is jointly managed by both spouses the profits and the additional output fall in the community. The study agrees with the view of Italian legal scholars, such as F. Santosuosso (1984) and F. Cosenza (2020) and who argue that joint management refers to the active participation of both spouses in the business activities, irrespective of ownership. According to them, the simple employment of the non-entrepreneur spouse in the commercial activity does not consist in management activity.

If the commercial activity starts during marriage, it is community property (Hubeladze, 2024). In line with P. Di Martino (1997) opinion, the study suggests that in interpreting Article 74 para. 1 (ç) of the Family Code of Albania (2003) the term creation should include both the commercial activities started during marriage and the quotas/shares/participation rights acquired by one spouse during marriage, on exception of those acquired through donation or inheritance. The study also offers a critical perspective on the immediate inclusion in the community of any form of commercial activity started by one spouse during marriage. As also stated by A. Semprini (2024) authors argue that this constitutes an excessive solidarity of the property interests of the spouses and infringes the freedom of economic initiative of the entrepreneur spouse. Furthermore, this is a constitutional principle provided by Article 11 para. 1 of the Constitution of the Republic of Albania (1998). Therefore, the study proposes that the Family Code of Albania (2003) provisions should be interpreted in light of this constitutional principle.

De lege ferenda, the study suggests that the commercial activities started during marriage by one spouse, but not jointly managed, should not fall automatically in the community. As A. Semprini (2024) argues, alternative solutions should be considered instead: either they could be included in the eventual community or the community could have a credit right of ½ of the value of the founding capital signed by the entrepreneur spouse or the right of ½ of the profits realised from the activity, without including the commercial activity itself in the community (Benanti, 2023). To protect the economic freedom of the entrepreneurial spouse, if community property is used for managing one spouse's commercial activity, the activity remains personal, with the community including only the additional output and property used for management if they remain unconsumed at dissolution (Xhafka *et al.*, 2024).

Agreeing with Italian jurisprudence (Case No. 25415 of the Italian Court of Cassation) as analysed by S. Cannizzaro (2022), if the entrepreneur spouse disposes the community property that was used for the administration of his/her commercial activity, and the act of disposal is realised within the business context, the added value gained from the alienation is attributable solely to the entrepreneur spouse. Overall, the study states that future legislative amendments should consider alternative solutions in governing commercial activities within marriage, ensuring a fair balance between economic freedom and spouses property rights.

Conclusions

The current Family Code of Albania has for the first time expressly regulated the commercial activities started by spouses during marriage, this within the framework of the new economic-political system established in Albania after the 1990s. This study demonstrates that, given that in the Albanian legislation, specifically in the commercial one, there is no definition of the term commercial activity, a coordinated interpretation and implementation of the provisions of the Family Code of Albania that regulate the matrimonial property regime and of the provisions of the Law on Entrepreneurs and Commercial Companies should be made. The interpretation process must aim to balance several competing interests: the family's property rights, representing the interests of the legal community; the necessity of sustaining commercial activity; each spouse's constitutional right to economic freedom; the rights of creditors of the entrepreneurial spouse; and, more broadly, the country's economic growth and stability. Achieving harmony between these two legal areas presents significant challenges, as family and commercial laws were developed at different times and influenced by diverse legal models from various jurisdictions.

The results of the study show that including ipso jure all the commercial activities started by one spouse during marriage in the legal community limits the economic freedom of the entrepreneurial spouse and can have a negative impact on the business affairs. These rules were introduced to protect the weaker spouse (mostly the women), thus ensuring marital solidarity. However, over the past twenty years, the socio-economic landscape of the country has undergone significant changes and women now have much greater access to education, to the labour market, and to business opportunities.

The analysis of judicial practice reveals significant inconsistencies in the interpretation and application of matrimonial property rules concerning commercial activities in Albania. While the High Court has increasingly recognised that business assets acquired during marriage whether through direct ownership or participation in commercial companies fall under the legal community regime, divergent judicial opinions persist. Some rulings have narrowly interpreted Article 74(ç) of the Family Code, limiting its scope to sole proprietorships, whereas others have adopted a broader approach, including company shares and business profits accumulated during marriage. The findings indicate that judicial decisions are moving toward a more inclusive interpretation of business-related assets in matrimonial property disputes, yet unresolved ambiguities continue to create unpredictability in legal outcomes, underscoring the need for legislative reform to ensure consistency and clarity in applying the law.

Future research could focus on refining the definitions of "commercial activity" and "joint management" in Albanian family law, addressing the current ambiguities in the Family Code of Albania.

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Conflict of interest

None.

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Взаємодія між режимами спільної власності подружжя та комерційним правом в албанському законодавстві: вплив Цивільного кодексу Італії

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Анотація. У дослідженні було розглянуто правові неузгодженості в албанському законодавстві про майно подружжя та комерційне право, де різні традиції створюють невизначеність у класифікації бізнес-активів, набутих під час шлюбу, що впливає на права подружжя та вимоги кредиторів. Метою дослідження було визначити чинне законодавство щодо комерційної діяльності, започаткованої та/або керованої кожним із подружжя під час шлюбу, а також дослідити невідповідності між сімейним та комерційним законодавством. У дослідженні використано комплексну методологію правових досліджень, що поєднувала правовий аналіз, вивчення судової практики, порівняльні дослідження та доктринальні правові дослідження, з особливим акцентом на аналізі національного та іноземного законодавства, судових рішень Верховних судів Албанії та Італії, а також академічної правової доктрини для оцінки перетину подружнього майна та комерційного права. У дослідженні проаналізовано Сімейний кодекс Албанії та Закон про підприємців і комерційні компанії. Ці два законодавчі акти були прийняті в різний час і базуються на різних правових моделях. У дослідженні продемонстровано, що їм бракує координації, що робить їх практичне застосування складним для албанських судів. Крім того, у дослідженні проаналізовано вплив Цивільного кодексу Італії на албанське законодавство в частині регулювання режимів спільної власності подружжя. Хоча режим спільної власності моделюється за прикладом італійського законодавства, між двома правовими системами існують певні відмінності, коли йдеться про комерційну діяльність, засновану під час шлюбу. Дослідження закладає основу для правових реформ, спрямованих на гармонізацію подружньої власності та комерційного права в Албанії, що забезпечить чіткість у розподілі бізнес-активів

Ключові слова: шлюб; спільність набуття; автономія сторін подружжя; підприємець; комерційна компанія

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Consideration of private prosecution cases in the courts of first instance according to international standards of procedural law: Problems and prospects for inclusive justice

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Abstract. International standards of procedural law are increasingly influencing national legislation. This creates the need to adapt national procedures to international standards, particularly in the sphere of private prosecution. The purpose of this study was to identify ways to improve the institution of private prosecution in the courts of first instance of Kazakhstan to ensure its compliance with international standards and principles of inclusive justice. The study was based on a comprehensive application of systemic and structural, comparative legal, and formal legal methods, which enabled a comprehensive analysis of the legal framework of Kazakhstan and international standards in the field of private prosecution. The study revealed major discrepancies between Kazakh legislation and international standards, including the absence of mandatory participation of a lawyer and a prosecutor in private prosecution cases, which leads to a violation of the principle of equality of arms and restrictions on access to justice. A comparative analysis of the experience of European countries, specifically Germany, France, Latvia, and the Netherlands, revealed the key elements of successful models of inclusive justice: the Nebenkläger institution of procedural complicity in Germany, which provides victims with broad procedural rights; the French system of specialised victim support centres; the Latvian model of mandatory prosecutorial participation; and the Dutch practice of restorative justice and mediation. Based on the study conducted, a set of measures to improve Kazakh legislation was proposed, including the introduction of a state programme of free legal aid, the creation of a network of victim support centres, the development of e-justice and the introduction of mandatory prosecutorial involvement in private prosecution cases. The findings of this study can be used to reform the system of

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private prosecution in Kazakhstan and other post-Soviet countries with a view to ensuring fair and inclusive justice in line with international standards

Keywords: mediation; free legal aid; guarantees of legal practice; legal protection; social vulnerability; electronic document management

Introduction

Under the current conditions of development of the legal system of Kazakhstan, the issue of consideration of private prosecution cases by the courts of first instance according to international standards of procedural law is of particular relevance. This is driven by the need to ensure effective protection of the rights and freedoms of citizens who have become victims of criminal offences, as well as the need to modernise the judicial system according to international standards of fair trial. The significance of this study is also underlined by the fact that the institution of private prosecution is a significant mechanism for exercising the right of citizens to judicial protection stipulated in the Constitution of the Republic of Kazakhstan (1995). Furthermore, in the context of the growing number of private prosecution cases, there is a need to improve the procedural mechanisms for their consideration, considering international practices and standards.

An analysis of the scientific literature shows that researchers are interested in various aspects of consideration of private prosecution cases in the courts of first instance. R.W. Gordon (2019) conducted a thorough investigation of the procedural order of the trial of private prosecution cases and identified substantial shortcomings in the justice system in terms of ensuring equal access to legal services. The researcher not only identified the problem of ambiguous interpretation of the term "private prosecutor", but also proposed concrete mechanisms for improving legislation on the requirements for the content of court decisions and simplifying access to justice. An important contribution was made by K. Braun (2019), who analysed the issue of active participation of victims in criminal proceedings in various legal systems. The researcher did not limit herself to theoretical analysis but developed a practical concept of protection of victims' rights at different stages of criminal proceedings, considering the successful practices of European countries. Based on a comparative analysis of the inquisitorial and adversarial systems of justice, the researcher proposed concrete steps to improve the mechanisms of victim participation in criminal proceedings.

B. Toleubekova *et al.* (2021) presented a comprehensive study of the three-tier model of criminal procedure in Kazakhstan. Of particular value is the methodological substantiation of the need to adapt the European model to Kazakh context and the development of concrete mechanisms for such adaptation. L. Nurlumbayeva *et al.* (2021) performed an in-depth comparative legal analysis of the institution of writ proceedings, which began operating in Kazakhstan in 2018. The researchers not only identified problems in the implementation of this institution, but also proposed concrete legislative changes to improve its effectiveness. M.N. Mamaeva (2024) continued studying the issue. The researcher focused on the independence of advocacy, conducting a comparative analysis of the legislation of Kazakhstan and Uzbekistan. Her recommendations for strengthening the guarantees of the legal profession are essential to ensure effective protection of the rights of participants in criminal proceedings.

B.K. Ruzmetov (2021) presented an innovative study of human rights protection in the criminal procedure legislation of Uzbekistan. The researcher thoroughly analysed the liberalisation of criminal law policy and its effect on the status of participants in the process, proposing concrete mechanisms to expand the procedural capabilities of lawyers. Y. Yerkebulanov and B. Tukulov (2022) conducted a comprehensive analysis of the judicial system of Kazakhstan in the context of the state's international obligations. They paid special attention to the mechanisms of enforcement of court decisions and their compliance with international standards, developing practical recommendations for improving procedural legislation.

A.A. Duisenova and N.S. Kala (2020) made a valuable contribution to the understanding of international standards of judicial proceedings, conducting a comparative analysis of the practice of human rights protection in the courts of Kazakhstan and Macedonia. The researchers not only identified problematic aspects of the implementation of international standards, but also proposed concrete mechanisms for their practical implementation. E. Akhmetov *et al.* (2024) presented fundamental research on the principles of legality and justice. Their analysis covered both the theoretical aspects of these principles and the practice of their application in administrative proceedings, which is vital for understanding the general principles of the judicial system of Kazakhstan.

G. Mukhamadieva *et al.* (2021) proposed an innovative approach to understanding private detective activity as an element of the mechanism for protecting individual rights. The researchers not only substantiated the need for legislative regulation of this institution, but also developed concrete proposals for its implementation in the criminal procedure. No less important was the study of L. Nurlumbayeva and A. Akhpanov (2023), who conducted a comprehensive analysis of writ proceedings in criminal procedure. Based on the analysis of practices, they identified systemic problems in the application of this institution and proposed concrete mechanisms for their solution, including improving the procedure for the execution of sentences and optimising the timing of procedural decisions. At the same time, despite a considerable number of studies, a comprehensive analysis of the consideration of private prosecution cases by the courts of first instance in the context of international standards of procedural law requires further investigation. This is especially true for the issues of harmonisation of national legislation with international standards, ensuring the rights of participants in the process and improving the procedure for reconciliation of the parties in private prosecution cases. The issues of procedural guarantees of the rights of the victim and the accused in private prosecution cases, as well as mechanisms to ensure the effectiveness of court proceedings in such cases, are also understudied.

The purpose of this study was to determine the current state, problems, and prospects of private prosecution cases in the courts of first instance, considering international standards of procedural law and the principles of inclusive

justice. The focus on the first instance was conditioned by the fact that it is precisely at this stage that the procedural basis for protecting the rights of the parties to the proceedings is laid down and the evidence base is formed, which may later become decisive for the outcome of the case. Furthermore, most private prosecution cases are completed in the courts of first instance, which underscores the significance of ensuring a proper trial at this stage. To fulfil this purpose, the following tasks were set:

1. To investigate the specific features of private prosecution cases in the courts of first instance and analyse their compliance with international standards of procedural law, particularly in terms of ensuring the right to a fair trial and access to justice for all categories of the population.

2. To identify the key problems of implementing the principles of inclusive justice in private prosecution cases, including social, economic, and procedural barriers affecting the judicial protection of the rights of vulnerable groups.

3. To describe current trends in the development of inclusive justice in private prosecution cases and to explore promising areas for adapting court procedures to the needs of diverse social groups following international standards.

Materials and methods

The theoretical and methodological framework of this study included a set of interrelated concepts and approaches in the field of criminal procedure law and inclusive justice. The study was based on the fundamental principles of the rule of law, equal access to justice, and procedural fairness prescribed in international legal instruments. The conceptual framework of this study was formed based on the analysis of international standards for the protection of victims' rights in criminal proceedings, the principles of inclusive justice, and mechanisms for ensuring procedural equality of the parties. Particular attention was paid to the concept of restorative justice and its implementation in private prosecution cases, as well as to the theoretical foundations of ensuring the rights of vulnerable groups in criminal proceedings.

The study applied a system of interrelated methods of scientific cognition, which enabled a comprehensive approach to the investigation of the issue. The historical method helped to examine the evolution of the institution of private prosecution in relation to the development of human rights concepts and the principles of inclusiveness, to analyse the transformation of the role of the victim in criminal proceedings from a passive participant to an active subject of procedural relations, and to explore the dynamics of the development of procedural guarantees of the rights of participants in criminal proceedings. The systemic-structural method was employed to identify the interrelationships between various elements of the private prosecution system, analyse the structure of procedural mechanisms for protecting victims' rights, systematise barriers to access to justice, and build a comprehensive system of recommendations for improving legislation. This method was also used to investigate the interaction of various subjects of the criminal procedure and the mechanisms for ensuring their procedural rights. The comparative legal method was used to compare the provisions of Kazakhstan's national legislation with international standards, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the International Covenant on Civil and Political Rights (1966), and Directive of the European Parliament and of the Council No. 2012/29/EU (2012), analysing models of inclusive justice in Germany, France, Latvia, and the Netherlands (as countries that demonstrate distinct successful approaches to modernising the criminal justice system and protecting victims' rights) and identifying progressive elements of international practices suitable for implementation. This method helped to identify the specific features of legal regulation of private prosecution in various legal systems and to determine the most effective mechanisms for protecting victims' rights, as presented in Code of Criminal Procedure (StPO) (1950), Law No. 2000-516 of Strengthening the Protection of the Presumption of Innocence and the Rights of Victims (2000), Criminal Procedure Law of Latvia (2009). The formal legal method was employed to interpret the provisions of national and international law, to analyse the legal constructions of Criminal Procedure Code (CPC) of the Republic of Kazakhstan (2014), Criminal Code of the Republic of Kazakhstan (2021), Law of the Republic of Kazakhstan No. 176-VI "On Advocate Practice and Legal Assistance" (2018) and procedural mechanisms, to identify gaps in the legal regulation of private prosecution, as well as to formulate proposals for improving the legislation.

The study was conducted in three consecutive stages, each of which had its specific tasks and methodological tools. The first stage involved the review of the theoretical foundations of the institution of private prosecution in the courts of first instance, analysis of the national legislation of Kazakhstan and systematisation of international standards in the field of criminal justice, which allowed forming the theoretical framework of this study and determining the key areas of further analysis. The second stage involved identifying procedural, economic, and socio-cultural barriers to the consideration of cases in courts of first instance, assessing the feasibility and effectiveness of existing legal protection mechanisms, and systematising the problems of access to justice, which helped to identify the principal issues in the area of ensuring inclusiveness of justice. The third stage involved studying foreign practices of inclusive justice, assessing the possibilities of adapting international practices, and developing recommendations for improving legislation, which allowed formulating concrete proposals for improving mechanisms for protecting victims' rights.

Results and discussion

Theoretical legal principles and specific features of consideration of private prosecution cases in the courts of first instance of Kazakhstan. The institution of private prosecution is a key element of criminal procedural law, which entitles the victim to initiate criminal prosecution of the person who committed the crime against them. This mechanism allows the victim to apply directly to the court with a request to bring the perpetrator to criminal liability, bypassing the pre-trial investigation stage, which is usually carried out by law enforcement agencies. This approach contributes to the implementation of the principle of access to justice, as it enables a person to protect their rights and interests directly, without the intermediation of state authorities. In the international context, the institute of private prosecution is viewed as one of the ways to ensure the right to an effective remedy. Specifically, Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) guarantees everyone the right to an effective remedy for violations of their rights and freedoms.

This means that member states must provide mechanisms that allow an individual to apply independently to the competent national authorities to redress violations. Although Kazakhstan is not a member of the Council of Europe and, accordingly, is not a signatory to the European Convention on Human Rights, the state recognises and implements international human rights standards through its participation in other international treaties and conventions, including the International Covenant on Civil and Political Rights (1966).

According to a comparative study of legal systems conducted by J. Barth (2022), the effectiveness of the private prosecution institution largely depends on the procedural guarantees provided to victims and their accessibility to diverse social groups. J. Barth's research shows that developed legal systems usually provide a wide range of procedural rights to victims in private prosecution cases, including the right to free legal aid and the mandatory participation of a professional representative, which is particularly important for ensuring inclusiveness of justice.

In the Republic of Kazakhstan, private prosecution is regulated by the CPC of the Republic of Kazakhstan (2014). Pursuant to Article 32 of the Code, private prosecution cases are initiated exclusively at the request of the victim or their legal representative and are subject to termination in case of reconciliation between the victim and the accused. This is in line with the principle of discretion, according to which the initiative in criminal proceedings belongs to the victim, not to the state represented by law enforcement agencies. However, an analysis of the provisions of the CPC of the Republic of Kazakhstan (2014) indicates certain problems in the regulation of the institution of private prosecution in Kazakhstan, specifically, the legislation does not stipulate the mandatory participation of a lawyer or prosecutor in private prosecution cases. This can lead to situations where the victim, lacking sufficient legal knowledge and experience, is unable to defend their rights and interests in court effectively. I. Nahornyi (2023), in his study of access to justice, highlighted that the absence of mandatory participation of a lawyer or prosecutor in private prosecution cases creates substantial barriers to the right to a fair trial. According to his findings, in countries without mandatory legal aid in private prosecution cases, the success rate of such cases is drastically lower than in countries where such aid is guaranteed by law. The lack of professional legal aid can be an obstacle to a fair trial and lead to a violation of the principle of equality of arms, which is fundamental to criminal proceedings. The principle of equality of arms is prescribed in Article 14 of the International Covenant on Civil and Political Rights (1966), ratified by Kazakhstan in 2006, which guarantees everyone the right to a fair and public hearing by a competent, independent, and impartial tribunal. This means that both parties to the proceedings – both the victim and the accused – must have equal opportunities to present their arguments and evidence, and to receive the necessary legal aid.

International criminal justice standards emphasise the need to ensure effective access to justice for victims. For example, the Directive of the European Parliament and of the Council No. 2012/29/EU (2012) obliges European Union member states to ensure that victims have access to information, support, and services, and to provide free legal aid where necessary for effective access to justice. This document emphasises the significance of the state's role in supporting victims and ensuring their rights in criminal proceedings. The issue of ensuring the equality of parties in criminal proceedings attracts considerable attention of researchers. In their studies, G.S. Mendlow (2021) and B. Hasbrouck (2021) paid special attention to the issues of interaction between the state and victims in criminal proceedings. G.S. Mendlow (2021) noted that classical crimes, such as assault, are primarily offences against individuals, not the state, but the legal system deprives victims of the right to initiate or intervene in the criminal process, reducing their role to that of witnesses or bystanders. According to the researcher, such a system overturns the usual structures of responsibility, where victims of offences have a higher moral status than any third parties. B. Hasbrouck develops this idea by emphasising the need to reform the prosecutorial system to ensure true justice. The researcher criticised the excessive discretion of prosecutors and their tendency to maximise convictions rather than seek justice. B. Hasbrouck proposed the concept of a "fair prosecutor" based on the principles of protection of civil liberties, equal protection, and procedural rights of all participants in the criminal procedure.

The absence of mandatory prosecutorial involvement in private prosecutions in Kazakhstan also raises concerns from the standpoint of international standards. According to the Guidelines on the Role of Prosecutors (1990), prosecutors should take an active part in criminal proceedings to ensure fairness and protect the public interest. They should act impartially and objectively, promote the truth, and ensure that the rights of all participants in the procedure are respected. The involvement of the prosecutor may be particularly relevant in private prosecution cases, where the victim may not have sufficient resources or knowledge to effectively pursue the case (Bocheliuk *et al.*, 2020). The procedural order for the consideration of private prosecution cases in the courts of first instance in Kazakhstan is determined by the CPC of the Republic of Kazakhstan (2014). After the victim files a petition for the initiation of a private prosecution case, the court is obliged to consider it and decide whether to initiate or refuse to initiate the case. In this case, no pre-trial investigation is carried out, and the case is immediately forwarded to court. This approach has both advantages and disadvantages. On the one hand, it enables a quicker consideration of the case and a faster delivery of a judgement, which is in line with the principle of swift justice. On the other hand, the absence of a pre-trial investigation may result in insufficient evidence collection and complicate the establishment of the truth in the case.

Unlike the courts of first instance, the consideration of private prosecution cases in the appellate and cassation instances has its specific features. According to the provisions of the CPC of the Republic of Kazakhstan (2014), the appeal proceedings are one of the key stages of reviewing court decisions, which ensures that the rights of the parties to the procedure and the legality of court acts are respected. The right to appeal against a verdict or ruling of the court of first instance is granted to the accused, their defence counsel, the victim, civil plaintiff, civil defendant, as well as their representatives under Article 431 of the CPC. A special feature of the appellate proceedings is the possibility of requesting and examining new evidence, which is regulated by Article 438. However, the submission of new evidence is allowed only if the party substantiates the impossibility of its submission during the trial in the first instance. In this context, professional representation is important, as the correct

formulation of an appeal and preparation of supporting materials require a thorough understanding of procedural rules and judicial practice. At the same time, while in the court of first instance the victim can independently support the prosecution, in the court of appeal their interests often require the involvement of a representative or a lawyer.

The cassation proceedings are aimed at checking the correctness of the application of substantive and procedural law, rather than the factual circumstances of the case. Pursuant to Article 452 of the CPC of the Republic of Kazakhstan (2014), the cassation instance considers only matters of law, without evaluating new evidence and establishing factual circumstances. The participation of a lawyer in cassation proceedings is not mandatory, but its expediency stems from the complexity of preparing a cassation appeal, which requires a detailed analysis of the application of legal provisions. The institution of reconciliation of the parties in cassation does not apply, which is in line with the general purpose of this stage of proceedings. Another specific feature is that the prosecutor is entitled to file appeals and cassation appeals even if they did not take part in the trial of the case by the court of first instance. This is regulated by Article 435 of the CPC and is aimed at ensuring the rule of law and protecting the interests of victims. Overall, the procedural specifics of the appeal and cassation proceedings prescribed by the CPC are aimed at ensuring the principle of legality and the exercise of the rights of all participants in the procedure.

International practice emphasises the significance of conducting a full pre-trial investigation to ensure a fair trial. For example, the Fair Trial Standards (Amnesty International, 2014) emphasise the need for a thorough and objective investigation of crimes to ensure justice and protect the rights of all parties to the procedure. A lack of proper investigation can lead to a violation of the right to a fair trial guaranteed by international legal instruments. Furthermore, the absence of mandatory participation of a lawyer in private prosecution cases in Kazakhstan may negatively affect the quality of the trial. A victim who does not have a legal education may not know all the nuances of procedural law, may be unable to properly formulate their claims and present evidence. This can lead to the situation where despite having sufficient grounds to bring the accused to justice, the court may refuse to satisfy the victim's claims due to procedural errors or insufficient evidence.

It becomes apparent that Kazakhstan's legislation on private prosecutions needs to be improved to ensure its compliance with international standards. According to V. Colvin and P. Stenning (2018), the prosecutor in modern legal systems is a powerful yet mysterious figure who, acting outside the court and often outside public scrutiny, acts as a real "gatekeeper" of the criminal procedure, capable of limiting judicial discretion in sentencing, opening the way to alternative measures, and even denying access to the criminal justice system. That is why it is necessary to introduce mechanisms that would provide victims with access to free legal aid. This can be achieved by introducing mandatory participation of a lawyer in private prosecution cases or by providing victims with the opportunity to receive free legal advice and support. It is also important to consider mandatory participation of a prosecutor in private prosecution cases. The prosecutor's involvement can contribute to a more objective and comprehensive review of the case, ensure compliance with the law, and protect the rights of all parties to the procedure. The prosecutor, as a representative of the state, has the necessary knowledge and experience to effectively conduct a criminal case, collect and present evidence, and monitor compliance with procedural rules (Amelin, 2024).

Furthermore, attention should be paid to the possibility of using alternative dispute resolution methods in private prosecution cases. International standards, such as the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (2002), encourage the use of restorative justice and mediation as a way to resolve conflicts between the victim and the accused. The introduction of such mechanisms into national legislation can contribute to more efficient and humane resolution of criminal cases, reduce the burden on the judicial system and restore social justice. In the context of a comparative analysis of Kazakhstan's national legislation and international standards on private prosecution cases, the following aspects can be highlighted (Table 1).

Table 1. Comparative analysis of the national legislation of Kazakhstan and international standards on private prosecution cases

Procedural aspect	Regulation in Kazakhstan	International standards	Recommendations on harmonisation
Right to legal aid for victims	Does not mandate the participation of a lawyer; the victim represents themselves in court independently (Criminal Procedure Code..., 2014)	Free legal aid for victims is required, especially in complex cases (Directive of the European Parliament and of the Council No. 2012/29/EU, 2012)	To introduce mechanisms to provide free legal aid to victims in private prosecution cases, including through state programmes or support from NGOs
Prosecutor's participation	The participation of the prosecutor is not mandatory; the prosecutor may not take part in the case (Criminal Procedure Code…, 2014)	Prosecutors should be actively involved in the criminal procedure to protect the public interest and ensure justice (Guidelines on the Role of Prosecutors, 1990)	To introduce mandatory participation of the prosecutor in private prosecution cases to ensure the objectivity and legality of the procedure
Reconciliation of the parties	Reconciliation between the victim and the accused is a ground for termination of the criminal case; mediation procedures are not regulated in detail (Criminal Code of the…, 2021)	The use of restorative justice and mediation as alternative dispute resolution methods is encouraged (Resolution of the UN Economic and Social Council No. 2002/12, 2002), which is a ground for dismissal of a criminal case both in Kazakhstan and in the EU	To develop and implement clear procedures for mediation in private prosecution cases, including the participation of qualified mediators and ensuring voluntary participation of the parties

Table 2, Continued

Procedural aspect	Regulation in Kazakhstan	International standards	Recommendations on harmonisation
Protection of the rights of the accused	Guaranteed by the legislation; however, the absence of professional prosecution may lead to a violation of the principle of adversarial proceedings (Criminal Procedure Code..., 2014)	Need to strike a balance between the rights of the victim and the accused; principle of equality of arms (Amnesty International, 2014)	To ensure equality of arms through the participation of professional lawyers from both parties, to introduce mechanisms to monitor the observance of the procedural rights of the accused

Source: compiled by the authors

Table 1 demonstrates the substantial discrepancies between Kazakhstan's national legislation and international standards in the area of private prosecution. The gap is particularly noticeable in the areas of legal aid and prosecutorial involvement, where Kazakh legislation lags far behind international requirements. A positive aspect is the existence of a mechanism for reconciliation of the parties, but it requires more detailed regulation and the introduction of modern mediation practices. The key problem continues to be the imbalance in ensuring the rights of the parties to the process, which needs to be addressed systematically through the implementation of the proposed recommendations. The harmonisation of national legislation with international standards will not only increase the efficiency of the private prosecution institution, but also ensure an adequate level of protection of the rights of all participants in the criminal process.

Thus, to increase the effectiveness of the institution of private prosecution in Kazakhstan and its compliance with international standards, it is necessary to implement a set of measures to improve the legislation and practice of its application. This includes the introduction of mechanisms for providing free legal aid to victims, mandatory participation of the prosecutor in private prosecution cases, development of mediation procedures, and ensuring equality of parties in the procedure. Implementation of these measures will help strengthen the rule of law, increase public confidence in the judicial system, and ensure inclusive justice.

Problems of implementing the principles of inclusive justice in private prosecution cases. Inclusive justice is a fundamental principle of the modern legal system, which aims to ensure equal access to judicial mechanisms for all citizens, regardless of their social status, economic opportunities, or physical characteristics. According to the Universal Declaration of Human Rights (1948), everyone is entitled to an effective remedy. This concept emphasises the need to create conditions under which everyone can effectively exercise their rights and freedoms through judicial protection. Inclusiveness in justice implies adapting court procedures and institutions to the needs of diverse populations, including ensuring language accessibility for ethnic minorities and migrants who may not have a sufficient command of the national language, as well as physical accessibility of court buildings for persons with disabilities (Miliienko, 2023). Furthermore, the availability of specialised support services, such as psychological counselling or legal advice, contributes to the fuller involvement of citizens in the legal process. International standards, such as Access to Justice for All (2016), emphasise the need to overcome barriers to full participation in legal processes.

Recent international research confirms the systemic nature of the problems with implementing the principles of inclusive justice, which is particularly acute in private prosecution cases. According to B.C. Elder *et al.* (2024), existing measures to ensure access to justice are often only reactive, focusing on the provision of interpreters in courts, but do not address the fundamental problem of the "linguistic gap" between a person and legal aid. In Kazakhstan, this problem is particularly acute due to the multinational composition of the population and specific regional features of the linguistic environment. A. Truong (2022) found that this situation complicates access to justice in private prosecution cases for members of linguistic minorities, which is also typical for Kazakhstan, where the language barrier often becomes a formidable obstacle to initiating and maintaining prosecution independently. A. Deseau *et al.* (2023) emphasised that such barriers to access to justice have not only individual but also macroeconomic consequences – their study of 105 countries showed a correlation between improved access to justice and economic growth, which is particularly relevant for Kazakhstan with its diverse ethnicity and geography. J. Monkelbaan (2023) added that existing economic systems often exacerbate inequalities in access to justice due to the high cost of legal services and the complexity of court procedures. In the context of Kazakhstan, this is further exacerbated by the large geographical dispersion of the population and the uneven distribution of legal resources between urban and rural areas.

Despite advances in the implementation of the principles of inclusiveness, there are systemic problems that limit citizens' access to justice. The complexity and intricacy of judicial procedures create major obstacles for citizens, which is particularly noticeable in Kazakhstan compared to developed legal systems where, as H. Genn (2019) noted, simplified mechanisms for self-representation are in place. Economic barriers, including the cost of legal services and court fees, pose a major challenge in Kazakhstan, where the free legal aid system is less developed than in the countries studied by Food and Agriculture Organization (FAO) (Right to food..., 2011). Cultural and social barriers in Kazakhstan are conditioned by its multinational composition and traditional social practices. According to the U.S. Department of State's Country Report on Human Rights in Kazakhstan 2022 (Rand, 2024), ethnic minorities face considerable difficulties in various spheres of life, with notably low representation in government – only two of the 23 cabinet members were not ethnic Kazakhs. Some human rights activists have noted that ethnic minorities are increasingly marginalised from the country's social and political mechanisms. The report also highlights the problems of women facing domestic violence. A study by the Ministry of National Economy cited in the report found that most victims of partner violence never report their experiences due to social stigma. The police usually intervene only in life-threatening cases, and law enforcement

often encourages reconciliation between the parties. NGOs note that the lenient penalties for domestic violence – an administrative offence with a maximum sentence of 15 days of detention – do not deter even previously convicted offenders. Law enforcement's response to domestic violence continues to be problematic. Even when victims reported violence, activists claimed that the police were reluctant to take action, sometimes failing to issue restraining orders and trying to dissuade victims from filing complaints. This created an environment of impunity for aggressors.

Vulnerable groups, such as persons with disabilities, ethnic minorities, migrants, and women survivors of violence, therefore, require special attention and face added barriers to accessing justice (Apakhayev *et al.*, 2024). Persons with disabilities may have limited physical access to court buildings if they are not equipped with ramps, lifts, or other accessibility features. There may also be a lack of adapted materials, such as documents in Braille or the ability to receive information in audio format. According to the Convention on the Rights of Persons with Disabilities (2006), states must ensure that justice is accessible to persons with disabilities on an equal basis with others. Women who are victims of violence often face gender stereotypes and insufficient support from law enforcement agencies, which can lead to doubts regarding the effectiveness of judicial protection or fear of repeated victimisation. The Committee on the Elimination of Discrimination against Women (2017) recommends the implementation of gender-sensitive approaches in justice, including specialised training for judges and court staff. To systematise the overarching barriers to access to justice and the mechanisms for overcoming them, it is suggested to consider the table below (Table 2).

Table 2. Barriers to access to justice and strategies to overcome them

Barrier	Barrier characteristics	Negative consequences	Mechanisms for overcoming	Expected outcomes
Procedural complexity	Excessive formalisation of court procedures; complex legal terminology; lack of unified forms of procedural documents; multi-stage procedures	Inability to defend rights independently; dependence on professional legal aid; increased time for consideration of cases; increased number of judicial errors	Development of standardised forms of procedural documents; creation of interactive instructions; introduction of electronic document filing services; simplification of procedures for certain categories of cases; automation of routine processes	Increased level of independent access to justice; reduced timeframe for consideration of cases; reduced workload of courts; optimisation of court procedures
Economic constraints	High court fees; extensive legal aid costs; costs of expert examinations and supplementary procedural steps; transport costs	Refusal to go to court due to financial inability; inequality of opportunity in the judicial process; selective justice; limited access to evidence	Differentiation of court fees; expansion of the free legal aid system; creation of funds to support vulnerable groups; introduction of deferred payment mechanisms; subsidisation of expert examinations	Ensuring equal access to justice regardless of financial status; increasing trust in the judicial system; expanding opportunities for the protection of rights
Physical accessibility	Lack of infrastructure to meet the needs of persons with disabilities; geographical remoteness of courts; limited access to electronic services; lack of special equipment	Inability to attend court hearings in person; extra transportation costs; psychological discomfort; restriction of the right to a fair trial	Modernisation of judicial infrastructure; introduction of remote forms of participation; creation of mobile courts; development of e-justice; provision of special equipment	Provision of universal access to justice; optimisation of judicial processes; increase in the efficiency of judicial proceedings; integration of vulnerable groups
Socio-cultural barriers	Language limitations; cultural differences; religious characteristics; gender stereotypes; educational level	Discrimination; lack of trust in the justice system; ineffective protection of rights; cultural conflicts; social exclusion	Provision of translation; culturally sensitive staff training; implementation of anti-discrimination practices; creation of specialised units; intercultural mediation	Increased cultural competence of the judiciary; equal treatment; increased trust in justice; social inclusion
Institutional distrust	Bias in the judiciary; corruption risks; low transparency of processes; insufficiently qualified staff; bureaucracy	Refusal of legal protection; search for alternative ways to resolve conflicts; social tension; legal nihilism	Increasing transparency of judicial processes; introduction of ethical standards; strengthening of public control; systematic training of staff; digitalisation of processes	Restoration of trust in the judiciary; improvement of the quality of justice; strengthening of the rule of law; institutional modernisation

Source: compiled by the authors based on M. Kristoffersson (2021), Kristoffersson (2021), C. Gormley and N. Watson (2021), M.N. Haque and A Sharifi (2024)

The presented systematisation of barriers to access to justice reveals the multidimensionality of the issue and the interconnection between various types of barriers to access to justice. According to A. Adams-Prassl and J. Adams-Prassl (2020), effective overcoming of barriers requires an integrated approach. This is especially true in Kazakhstan, where the interdependence of different types of barriers creates more complex obstacles than in EU countries. A comparative analysis of the situation in Kazakhstan and the EU countries shows that problems with access to justice are more pronounced in Kazakhstan. Specifically, the lack of unified forms and electronic services complicates the judicial process, while in Germany, the electronic system besonderes elektronisches Anwaltspostfach (beA) operates

for the secure exchange of documents between courts and lawyers; in Austria, the ERV (Elektronischer Rechtsverkehr) platform provides digital communication between courts, lawyers, and citizens, including filing lawsuits and receiving court decisions (Bundesrechtsanwaltskammer: beA & ERV, 2024). The situation with economic barriers is more critical due to the lack of a developed system of free legal aid, unlike in the US and EU, where effective financial support mechanisms are in place. Physical accessibility is still a problem due to the large territory and uneven infrastructure development, although in the EU this problem has been partially solved by the e-justice system. Socio-cultural barriers are particularly relevant due to the multinational composition of the population, while mechanisms to overcome them are less developed in Kazakhstan compared to the EU, which has specialised cultural mediation programmes in courts, provides professional interpreters from rare languages and systematically trains judicial personnel in intercultural communication (Voitenko, 2023). For example, in Austria, the Task Force "Dialogue of Cultures" (2024) serves as a conceptual centre and initiator of various intercultural and interreligious dialogue initiatives, promoting intercultural understanding and cooperation. Furthermore, the Netherlands introduced the best practice for translation and interpretation in criminal proceedings (de Rechtspraac, 2016), which provides guidance on the role and responsibilities of interpreters, judges, and other participants in the trial, including in the context of intercultural communication.

Notably, the proposed mechanisms for overcoming barriers must be adapted to the specifics of the Kazakh legal system. For instance, the digitalisation of court proceedings in Kazakhstan, while solving the problem of physical accessibility, faces further challenges due to the uneven development of digital infrastructure in different regions of the country. According to the study by G. Dauliyeva and A. Yeraliyeva (2022), the development of digital public administration is accompanied by insufficient interaction between elements of the e-government infrastructure, a lack of qualified personnel and considerable cybersecurity risks, which directly affects the pace and quality of e-justice implementation in various regions of the country. Furthermore, the preventive nature of many of the proposed mechanisms should consider the local specific socio-cultural features and legal traditions of Kazakhstan. For instance, the Kazakhstan e-justice portal (2024) allows submitting documents in two languages – Kazakh and Russian, considering the language needs of the population of different regions. In rural areas, programmes of mobile courts and counselling centres operate to integrate traditional conflict resolution mechanisms with the formal judicial system. Mediation centres attached to regional courts conduct reconciliation procedures while accommodating local customs and traditions, which is crucial in family disputes and cases of protection of honour and dignity. A systematic approach to the implementation of these mechanisms should consider the specifics of various categories of cases, special regional features, and resource capacities of the judicial system, which will enable maximum efficiency in ensuring access to justice for all categories of the population (Venkatachalam, 2023).

To overcome the identified problems, a comprehensive system of procedural mechanisms should be introduced. First and foremost, court procedures should be simplified by developing accessible and understandable procedural documents, including standardised forms and instructions for self-filing of claims, which will help citizens without legal education to better understand the process and document requirements. Strengthening the system of free legal aid by expanding the categories of persons entitled to it and ensuring its quality will contribute to greater access to justice. Law of the Republic of Kazakhstan No. 176-VI (2018) could be supplemented with provisions guaranteeing funding and quality control of the services provided. Physical and informational accessibility of courts should be ensured through the adaptation of buildings for persons with disabilities and the introduction of electronic services, such as e-Justice, which allow for online filing of documents and receipt of information on the status of cases. Electronic services also help to overcome geographical barriers for residents of remote regions. Introducing specialised training programmes for judges and court staff on working with vulnerable groups will help to increase understanding and sensitivity to their needs, prevent discrimination, and ensure fair trials. Such programmes should include training in intercultural communication, gender equality, and ethics.

Ethnic minorities and migrants may face language barriers and cultural misunderstandings in Kazakhstan, where the CPC stipulates that although the right to an interpreter is guaranteed for participants in proceedings who do not speak the language of the proceedings, in practice this right is often exercised only for the accused, while the victim is forced to provide translation of documents and oral communication independently, requiring the judicial system to provide translation services and cultural adaptation of processes. Lack of access to interpreters or materials in their native language complicates their participation in court proceedings. This underscores the need for a systematic approach to ensuring language accessibility of court proceedings and cultural competence of court personnel. Implementation of the principles of inclusive justice in private prosecution cases requires a comprehensive approach, including regulatory changes, organisational measures, and educational activities. Overcoming existing barriers to access to justice will help protect citizens' rights and build trust in the judicial system. The introduction of procedural mechanisms aimed at ensuring inclusiveness is a prerequisite for building a fair and effective justice system in modern society.

International practices and prospects for the development of inclusive justice in private prosecution cases. International practices in the field of private prosecution cases demonstrate the need to harmonise national legal systems with international standards that ensure accessibility and fairness of trials. In this context, the examples of the European Union countries, where the issue of inclusiveness of justice is a priority, are noteworthy. Particularly important in this regard is Directive of the European Parliament and of the Council No. 2012/29/EU (2012), which sets minimum standards for the rights, support, and protection of victims of crime, and stipulates that all victims are entitled to free legal aid where necessary for effective access to justice. This is a crucial guarantee of the principle of equality of arms, as without legal aid, victims may be unable to represent their interests in court effectively. This approach demonstrates the recognition of the significance of professional legal aid as a key tool for overcoming procedural barriers.

In Germany, private prosecution cases are governed by the provisions of the Code of Criminal Procedure of

Germany (1950), which grants victims broad rights to take part in criminal proceedings, including the ability to engage a lawyer at every stage of the proceedings. According to A.Y. Pratomo *et al.* (2021), the effective exercise of the rights of participants in criminal proceedings requires not only proper legal regulation, but also the creation of relevant infrastructure and access to legal aid. Notably, in such cases, the victim has the status of a "Nebenkläger" (co-plaintiff), which allows them to take an active part in the trial, provide evidence, and appeal against court decisions. Furthermore, German legislation stipulates that free legal aid is provided in cases where the victim is unable to pay for a lawyer, which is another crucial aspect of ensuring inclusive justice. The German experience shows that the involvement of a lawyer gives victims more confidence in their rights and opportunities, which contributes to increased trust in the justice system.

France also demonstrates successful practices aimed at ensuring inclusiveness in criminal proceedings. The Law of France No. 2000-516 (2000) greatly expanded the rights of victims by enabling them to take part in the trial and represent their interests through legal counsel. A significant element of the French model is the establishment of specialised victim support centres that provide legal aid and psychological counselling. Such centres work in close cooperation with the judiciary, which allows victims to receive comprehensive support even before the trial begins. According to a comparative study by K. Braun (2019), this integration of support services into the French inquisitorial justice system allows for effective protection of victims' rights at all stages of criminal proceedings, from pre-trial investigation to sentencing. The introduction of these mechanisms has considerably improved access to justice, especially for vulnerable groups, and has become a model for other countries. In the context of post-Soviet states, it is worth highlighting the experience of Latvia, where the implementation of inclusive justice principles was achieved through reforms aimed at adapting to European standards. The Criminal Procedure Law of Latvia (2009) stipulates the right of victims to free legal aid and the mandatory participation of a prosecutor in cases of particular public importance. These provisions ensure equal opportunities for all parties in the trial and create conditions for prompt and fair consideration of cases. The specific feature of the Latvian model is the widespread use of electronic services, which greatly simplifies the submission of documents and obtaining information on the progress of the case, especially for those living in remote areas.

A comparative analysis of inclusive justice models allows identifying several key elements that may be useful for Kazakhstan. Firstly, ensuring access to free legal aid is a prerequisite for the right to a fair trial. The experience of EU countries shows that such services can be financed both from the state budget and through cooperation with non-governmental organisations, which ensures the flexibility and sustainability of the system. Secondly, the mandatory participation of a prosecutor in private prosecution cases, as prescribed by international standards (Guidelines on the Role of Prosecutors, 1990), can greatly increase the level of objectivity and legality of the proceedings. The involvement of the prosecutor is critical to ensure that the procedural rights of both parties are respected, especially when the victim lacks the knowledge or resources to effectively defend their interests. As presented in Table 3, successful models of inclusive justice demonstrate strong benefits that can be leveraged to improve the private prosecution system in Kazakhstan.

Table 3. Comparative analysis of inclusive justice models in private prosecution cases

Country	Model of inclusive justice	Key elements	Implementation outcomes	Possibility of adaptation in Kazakhstan
Germany	Victim participation through the institution of procedural complicity Nebenkläger	The victim is entitled to take an active part in the trial as a party to the prosecution, to present evidence, call witnesses, and engage a lawyer; legal aid is free of charge for those with insufficient financial resources	Increased trust in the judicial system; ensuring procedural equality of the parties; active involvement of victims in court proceedings	Requires changes in legislation and allocation of funds to provide legal aid to victims
France	Victim support centres	The centres provide victims with comprehensive support: legal, psychological, and social aid; cooperation with law enforcement agencies and courts to ensure access to justice	Reduced repeated victimisation of victims; expedited access to necessary support and services	A network of support centres needs to be established, which requires funding and integration with government agencies
Latvia	Mandatory participation of the prosecutor	Prosecutor's involvement in private prosecution cases is mandatory; victims have access to free legal aid; active use of electronic platforms for submitting documents and information	Increase the efficiency of court proceedings; reduce the workload of courts; increase the transparency and fairness of judicial proceedings	Adaptation is possible through the digitalisation of court procedures and changes to legislation that involve the participation of the prosecutor
The Netherlands	Restorative justice and mediation	Active use of mediation programmes to reconcile the parties; involvement of professional mediators to reach a compromise and restore social justice	High level of victim satisfaction with the procedure; reduced burden on the judicial system; effective conflict resolution	Requires training of professional mediators, resources to implement mediation programmes, and public acceptance of these practices

Source: compiled by the authors based on Code of Criminal Procedure (StPO) (1950), Law of France No. 2000-516 (2000), Criminal Procedure Law of Latvia (2009), Resolution of the UN Economic and Social Council No. 2002/12 (2002), Guidelines on the Role of Prosecutors (1990)

The analysis of international approaches to private prosecutions in Table 3 shows the significance of establishing inclusive mechanisms that ensure access to justice for all participants in the procedure. One of the key characteristics of successful legal systems is the introduction of mechanisms that allow victims to effectively exercise their rights. For example, in European countries, special emphasis is placed on providing legal aid to victims, enabling them to effectively take part in the trial, provide evidence, and defend their interests. Germany and France offer comprehensive approaches to victim support, including legal aid and psychological counselling. As K. Braun (2019) noted, this approach reduces repeated victimisation and increases trust in the justice system. Victim-centred models of justice also include the use of modern digital technologies that provide quick and convenient access to court services. E-services are an essential element of modern justice, especially in countries where geographical or social barriers impede access to court. According to the European Commission's Report on Justice (EC report…, 2024), the digitalisation of justice in Latvia has substantially improved the efficiency of the system: the introduction of electronic document management, online filing of applications, and digital case tracking through the e-Case portal has made the country the third fastest in the EU in terms of the speed of first instance proceedings. Another promising area of development is the introduction of mediation practices that focus on restoring justice and reaching a compromise between the parties. International practices demonstrate that the use of restorative justice reduces the burden on the judicial system and promotes social reconciliation (Moroz & Horislavska, 2024).

A study of successful models of inclusive justice reveals that the introduction of mediation and restorative justice procedures could also be beneficial for Kazakhstan. International standards, such as the aforementioned Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (2002), emphasise the significance of the participation of the victim and the accused in the process of restoring social justice. The use of mediation as an alternative way to resolve conflicts can reduce the burden on the judicial system and provide a more flexible and humane resolution of disputes. For instance, in the Netherlands, the judicial system actively uses mediation – according to P. Bartusiak (2020), when a case is received, the court sends a letter to the parties with recommendations on the possibility of mediation and a self-test questionnaire. If the parties answer at least one question in the questionnaire in the affirmative, the case is sent to mediation for up to three months, and only if reconciliation cannot be reached is it returned to court. This system confirms the priority of the restorative approach in Dutch justice. According to B. Vaňatová (2021), practice shows that mediation is an effective alternative to dispute resolution, as it allows for a quick and cost-effective solution, and the agreements reached are better suited to the interests of both parties and have a longer-lasting effect.

The implementation of international practices in Kazakhstan should incorporate the specific national features of the legal system and social needs. The legislation of the Republic of Kazakhstan requires substantial improvement in terms of legal aid delivery and the involvement of a prosecutor in private prosecution cases. Adaptation of such practices can be achieved through the development of new legislative initiatives or amendments to the Criminal Procedural Code (2014). For example, the creation of state programmes to provide free legal aid requires a systematic approach and adequate funding. According to R.W. Gordon (2019), the successful implementation of such programmes depends on the institutional capacity of the state to ensure not only formal access to legal aid, but also its genuine effectiveness. The experience of developed legal systems shows that the mandatory participation of qualified lawyers in private prosecution cases, backed by adequate state funding and organisational support, is an integral part of ensuring equal access to justice and effective protection of the rights of all parties to the process. Furthermore, it is worth considering the possibility of establishing specialised support centres for victims of crime that could provide comprehensive legal, psychological, and social support.

However, the implementation of such initiatives requires a systematic approach and support from government agencies, the judiciary, and civil society. Successful implementation of the reforms will depend on the quality of training of judges and other process participants, which requires regular training and educational programmes. Specifically, judges need to be equipped with knowledge on working with vulnerable groups, including training on gender equality, intercultural communication, and anti-discrimination practices. This will contribute to a more responsive and inclusive judiciary that will be able to respond effectively to the needs of citizens. Thus, the adaptation of international practices in Kazakhstan may open new opportunities for improving the private prosecution system. The introduction of mechanisms for free legal aid, mandatory participation of the prosecutor, and mediation programmes will help to strengthen the rule of law and ensure fair trials for all citizens.

Conclusions

The study provided comprehensive research of the theoretical legal framework and specific features of private prosecution cases in the courts of first instance of Kazakhstan, as well as the problems of implementing the principles of inclusive justice in this category of cases. The study achieved its objective through a thorough analysis of national legislation, international standards, and practical aspects of ensuring access to justice, which helped to formulate a systemic vision of the issue and identify ways to improve the existing mechanisms for protecting the rights of victims in criminal proceedings. The findings of the study showed that there are substantial gaps in the current criminal procedural legislation of Kazakhstan which adversely affect the effectiveness of victim protection. First of all, it was found that there are no sufficient guarantees of legal aid and procedural mechanisms for the protection of victims' rights, which is fundamentally different from the practices of European countries, where such guarantees are legislatively established and supported by the relevant implementation mechanisms.

The comparative analysis revealed that the legal aid system in Kazakhstan requires extensive improvement, especially regarding the participation of a lawyer and a prosecutor in private prosecution cases. Unlike European countries, where comprehensive mechanisms for supporting participants in the criminal procedure are in place, including specialised centres for victims of crime and mediation programmes, the Kazakh system does not provide an adequate level of procedural guarantees. The study showed that the key systemic

problems include insufficient procedural regulation of the status of the victim, the lack of effective mechanisms for reconciliation between the parties, and limited access to justice for vulnerable groups, which is particularly acute due to language, economic, and physical barriers.

The study of international practices has helped to identify effective mechanisms for overcoming the identified problems. Specifically, the study analysed such successful models as the Nebenkläger institution of procedural complicity in Germany, the French system of specialised crime victim support centres, the Latvian practice of mandatory prosecutor participation, and the Dutch model of restorative justice. Based on this analysis, it was determined that a comprehensive approach to ensuring inclusiveness of justice should be implemented, which should include not only the improvement of procedural rules, but also the development of judicial infrastructure, professional development of judicial officers, and the introduction of modern information technologies.

The principal limitation of this study was the lack of empirical data on the effectiveness of the various models of legal aid to victims. Considering the rapid development of information technologies and the growing role of e-justice in ensuring access to justice, a promising area for further research is to investigate the effect of digitalisation on the adaptation of court procedures to the needs of diverse social groups and to develop relevant mechanisms for the implementation of e-justice in private prosecution cases.

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Розгляд справ приватного обвинувачення в судах першої інстанції за міжнародними стандартами процесуального права: проблеми та перспективи інклюзивного правосуддя

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Анотація. Міжнародні стандарти процесуального права все більше впливають на національне законодавство. Це зумовлює необхідність адаптації національних процедур до міжнародних стандартів, зокрема у сфері приватного обвинувачення. Метою цього дослідження було визначення шляхів удосконалення інституту приватного обвинувачення в судах першої інстанції Казахстану для забезпечення його відповідності міжнародним стандартам і принципам інклюзивного правосуддя. Дослідження ґрунтувалося на комплексному застосуванні системно-структурного, порівняльно-правового та формально-юридичного методів, що дозволило здійснити всебічний аналіз нормативно-правової бази Казахстану та міжнародних стандартів у сфері приватного обвинувачення. Дослідження виявило основні невідповідності казахстанського законодавства міжнародним стандартам, серед яких відсутність обов'язкової участі адвоката і прокурора у справах приватного обвинувачення, що призводить до порушення принципу рівності сторін і обмеження доступу до правосуддя. Порівняльний аналіз досвіду європейських країн, зокрема Німеччини, Франції, Латвії та Нідерландів, дозволив виявити ключові елементи успішних моделей інклюзивного правосуддя: інститут процесуальної співучасті Nebenkläger у Німеччині, який надає потерпілим широкі процесуальні права; французька система спеціалізованих центрів підтримки потерпілих; латвійська модель обов'язкової участі прокурора; нідерландська практика відновного правосуддя та медіації. На основі проведеного дослідження було запропоновано комплекс заходів щодо вдосконалення казахстанського законодавства, включаючи впровадження державної програми безоплатної правової допомоги, створення мережі центрів підтримки потерпілих, розвиток електронного правосуддя та запровадження обов'язкової участі прокурора у справах приватного обвинувачення. Результати дослідження можуть бути використані для реформування системи приватного обвинувачення в Казахстані та інших пострадянських країнах з метою забезпечення справедливого та інклюзивного правосуддя відповідно до міжнародних стандартів

Ключові слова: медіація; безоплатна правова допомога; гарантії адвокатської діяльності; правовий захист; соціальна вразливість; електронний документообіг

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Ukraine's practices in implementing the administrative services doctrine

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Abstract. The purpose of this study was to analyse Ukraine's practices in implementing the doctrine of administrative services, which became the basis for a new model of interaction between the state and citizens. The study focused on the conceptual and practical aspects of the integration of administrative services at the level of territorial communities, with an emphasis on the role of decentralisation, which ensures great accessibility and quality of administrative services through the flexibility and efficiency of local self-government. The methodology of the study was based on the analysis of regulations, the study of successful practices of administrative service centres (ASCs), as well as a comparative approach, which helped to identify the advantages and challenges of the Ukrainian model in the context of international practices. The findings of the study demonstrated the success of integrated service delivery offices in communities. Integrated offices, specifically ASCs, provide quick access to basic services, while decentralisation has contributed to effective resource management at the state and local levels, enabling better adaptation of services to the needs of residents. The digitalisation of services improved service efficiency by minimising bureaucratic obstacles and reducing time spent. However, one of the key challenges is the uneven access to digital services, especially in rural communities and for the elderly. Furthermore, a lack of funding and overly centralised norms and standards create obstacles for local governments, limiting their autonomy and ability to respond quickly to community demands. At the same time, some aspects of outsourcing and competition are highly controversial due to the risks of commercialisation of public services. The findings of the study showed that Ukraine's practices in reforming the administrative services sector contribute to the Europeanisation and humanisation of public administration and administrative law, strengthening its citizen-orientation. Certain aspects of these practices may be of interest to other countries

Keywords: integrated offices; administrative service centres; decentralisation; digitalisation; outsourcing

Introduction

The relevance of the subject of this study, which is related to the implementation of the administrative services doctrine in Ukraine, is conditioned by the complex changes taking place in the public sector and society. Over the past decades, the country has been undergoing radical transformations in the political, economic, and social spheres, which puts forward new requirements for the public administration system. In these conditions, ensuring public access to quality administrative services is one of the key factors in the successful development of the state (Jeong *et al.*, 2024). The efficiency of public administration forms an integral part of national security and stability, as transparency and speed of service delivery contribute to the growth of public trust in public institutions and strengthen social unity, especially in challenging times of military aggression.

The study is particularly relevant in the context of Ukraine's integration into the European community, where an effective and transparent public administration system is significant. The European Commission (2024b) emphasised that the network of Administrative Service Centres (ASCs) not only stays functional despite the military challenges, but also demonstrates resilience through mobile centres and remote workplaces, which is a sign of the successful application of modern approaches to administration. In the context of an active European integration course, it is Ukraine's practices in implementing innovative solutions in the field of public administration that can serve as an example for partner countries, which makes the subject even more relevant and significant (Zayats, 2024). The social aspect is equally important. Citizens' positive assessment of the quality of services provided by ASCs indicates real changes in the perception of public services, as noted O. Uliutina (2023). According to the latest data from the Ministry of Digital Transformation, the level of satisfaction with ASC services in Ukraine is 92-98%, which is an indicator of a strong level of performance by public administration and demonstrates effectiveness in the face of security challenges (Dashboard with the..., 2023).

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Furthermore, this subject is relevant in terms of studying the risks and challenges associated with the processes of deregulation and digitalisation of public administration. O. Pluzhnyk *et al.* (2024) investigated how introduction of digital solutions in administrative processes allows optimising the work of public authorities and reducing bureaucratic burden, but at the same time creates new threats, such as the risk of discrimination against certain categories of citizens due to the lack of accessibility of digital services. Ukraine's practices in balancing digitalisation and maintaining accessibility of services for all segments of the population is crucial for shaping a modern approach to public administration.

In the context of these transformations, it was significant to analyse existing studies that assess the success of reforms in the field of public administration in Ukraine and determine the prospects for further development. E. Ferlie and E. Ongaro (2022) investigated the use of strategic management models in public organisations, emphasising the value of adapting these models to local political, administrative, and cultural contexts in conditions of new and post-new public administration reforms. B. Smith (2023) analysed how decentralisation affects governance and interaction between central and local governments. S. Breyer *et al.* (2022) provided a broad overview of topics related to administrative law and regulatory policy in the United States. The study of the basics of administrative law in this study was of particular significance in the context of comparing diverse models of public service administration, including deregulation and digitalisation, which are relevant to the Ukrainian reform.

However, despite the detailed studies of these aspects of the reform of the public administration system and administrative law, the issue of a comprehensive analysis of the specific Ukrainian practices of implementing administrative services in the context of war and threats to national security is still open. The risks associated with aggressive digitalisation, which can create artificial barriers to access to administrative services for multiple categories of the population, are also understudied. In addition, the issues of outsourcing in the provision of administrative services and competition of functions in this system, which may affect its further development, have not received sufficient coverage.

The purpose of the present study was to investigate the practices of implementing administrative services in Ukraine, with a focus on the role of ASCs, as well as to identify positive and problematic aspects of deregulation and digitalisation in the context of war. The objectives of the study were to examine the historical development of administrative services in Ukraine and the key reforms that accompanied them, to assess the effectiveness of decentralisation initiatives in the field of administrative services, specifically the effects on the functioning of ASCs, to analyse the risks and challenges of digitalising administrative services and recommendations for overcoming them, to study the experience of outsourcing and competition of functions on the example of administrative services, and to assess the potential implications for the further development of public administration in Ukraine.

Materials and methods

The study involved a series of regulations that are key to analysing the administrative service system in Ukraine. The principal documents used included the Constitution of Ukraine (2020); the Law of Ukraine No. 5203-VI "On Administrative Services" (2012); the Draft Law No. 4380 "On Administrative Fee" (2020); the Law of Ukraine No. 2073-IX "On Administrative Procedure" (2022). When developing the research methodology, a series of analytical reports and assessment documents were used, which provided structured information on the state of administrative service delivery in Ukraine and recommendations for improvement: Results of Monitoring of 25 Pilot ASCs of the U-LEAD with Europe Programme's Inception Phase (U-Lead, 2021); SIGMA (2023) Report; Public Administration Reform Strategy for 2022-2025 (2021). The use of these sources ensured an objective and complete picture of the state and prospects of administrative services in Ukraine. These data provided scientific validity to the findings and helped to trace the dynamics of the development of the administrative services system in response to socio-economic and security challenges.

The study was conducted using the main legal methods that enabled a detailed analysis of the situation, assessment of legal provisions, and examine of the practice of their application. The comparative legal method was employed to analyse practices in the provision of administrative services, namely countries such as Sweden and Finland (Randall *et al.*, 2018), Germany, the United Kingdom, Poland, the Netherlands, and Canada (European Commission, 2023; 2024a; Shepherd & Champagne, 2024; Leyland, 2025), and to assess the degree of compliance of Ukrainian practices with international standards. The historical and legal method of development of the institution of administrative services in Ukraine in the retrospective of 15-25 years (since the system of administrative services has been formed in Ukraine for more than two decades) revealed the stages of its development and evolution, as well as the specific features of legislative changes. The use of this method was relevant, as the development of the administrative service system requires an assessment of long-term changes, which allows tracing not only successful decisions but also mistakes. The study also focused on certain general theoretical aspects essential for administrative law as a science and a branch of law, including the types and levels of statutory regulation of relevant social relations in the field of administrative services.

The systemic approach helped to consider the provision of administrative services as a multi-component system that includes the interaction of regulations, institutional structures, and organisational processes at various levels of government. The analysis using the systemic approach helped to establish the place of administrative services in the overall public administration system, assess its efficiency and possible areas for improvement. The systemic approach also ensured the structured analysis by considering administrative services in relation to other components of public administration. The functional approach was focused on determining whether the performance of the administrative service system meets the needs of society. This method was employed to analyse how the current service delivery mechanisms meet the interests of consumers, specifically in terms of accessibility and cost. The functional approach also helped to identify problematic aspects of the system's adaptability to current challenges, including security and financial threats.

Results

Legal framework and practice of implementing the administrative services doctrine in Ukraine. Since gaining independence in 1991, Ukraine has been on the path of building its governance system that meets the needs of civil

society and modern principles of public administration. One of the key tasks has been to create an institutional and regulatory framework for the provision of administrative services aimed at meeting the needs of society. A prominent event on this path was the adoption of the Constitution of Ukraine (1996), which laid down the fundamental principles of legal regulation of relations between the state and citizens. The Concept of Administrative Reform in Ukraine was adopted (Decree of the President of Ukraine No. 810/98, 1998), which defined the political and administrative framework for reforming the governance system, thus initiating the establishment of a new model of interaction between the state and its citizens. According to this Concept, the key goal of administrative reforms was to transform a citizen from an "object" of administrative influence into a full-fledged subject, a central element of social relations, for which the state and its body's function (Tymoshchuk, 2024).

On the path to creating an effective administrative service delivery system, Ukraine has been actively studying the practices of various countries, including the UK, Northern Europe (Sweden, Finland), North America (specifically, Canada), and Germany. Each of these countries offered its unique approaches to the organisation of administrative services, which, when adapted, served as the basis for the modern system of service delivery in Ukraine. The model of public administration in the UK and Northern European countries was shaped by the ideas of "new public management", which involves the adoption of private sector methods to improve the efficiency of public institutions. This approach, developed in the 1980s, promotes the concept of a "service state", where citizens and businesses are considered as clients of the state, and while the provision of services by the state should meet the level of customer-oriented service as in private structures (Peña-Casas & Ghailani, 2023; Leyland, 2025).

Nordic countries, such as Sweden and Finland, are known for their focus on digitalisation of administrative services and the simplest, most transparent procedures possible (Randall *et al.*, 2018). Specifically, Finland has placed a major emphasis on integrating various services into a single digital platform, which allows citizens to receive all necessary services online, without the need to visit institutions in person. In Germany, a prominent role in the reform of administrative services was played by municipal "Bürgerbüro" or "offices for citizens", which were created as multifunctional service centres. Between 2011 and 2024, Germany's municipal "Bürgerbüros" have undergone significant development, evolving into central service units within city administrations. These offices have expanded their range of services, offering citizens streamlined access to various administrative functions in a single location. This transformation reflects a broader trend in German municipal policy towards integrated and citizen-oriented service delivery (European Commission, 2023; 2024a). Such offices enable citizens to receive basic services in one place, which greatly simplifies their interaction with the state. Specifically, German cities tend to focus on the most popular services, such as residence registration, passport issuance, vehicle registration, etc. This makes public services more accessible to the population, as the working hours of such offices and their structure are oriented towards the convenience of citizens.

Municipal offices in Poland, the Netherlands, and Canada also provide successful examples of integrated administrative service systems. For instance, in some communities in Poland and in cities in the Netherlands, municipal centres provide not only conventional administrative services, but also social services, combining several departments and units in a single building. In Canada, such offices may include both municipal, provincial, and federal offices, which enables more effective coordination between distinct levels of government and provides convenience for service users. Notably, the creation of integrated offices in these countries is an autonomous decision of individual municipalities, which independently choose the organisational structure and functionality of such centres, reflecting the strong level of decentralisation in government. Between 2011 and 2024, Poland, the Netherlands, and Canada have expanded their integrated administrative service systems, enhancing accessibility and efficiency. In Poland and the Netherlands, municipal centers have increasingly combined administrative and social services, streamlining government interactions for citizens. In Canada, the integration of municipal, provincial, and federal services in single locations has improved intergovernmental coordination and service delivery (Shepherd & Champagne, 2024).

Ukraine has borrowed key ideas from the theory of "new public management", which developed the basis of modern reforms in the field of administrative services. I.B. Koliushko *et al.* (2001) made a valuable contribution to the popularisation of the 'service state' concept, substantiating the need for the state to focus on the interests of citizens, emphasising that the state should serve society, and not vice versa. The idea of creating the doctrine of administrative services, despite its significance for reforming the public administration system, has not always been perceived unambiguously. In some academic circles, specifically among administrative law scholars, it caused some scepticism and criticism. Thus, V. Harashchuk (2001) expressed reservations about this concept, believing that the approach to administrative service delivery could lead to excessive commercialisation in relations between the state and citizens. His warning was based on the fact that the very idea of administrative services may lead to their paid nature, as the services of public authorities are increasingly viewed through the lens of market relations, where the aspect of payment prevails.

In 2006, the Government of Ukraine adopted the first comprehensive policy document in the field of administrative services – the Concept for the Development of the System of Administrative Services Provision by Executive Authorities (Order of the Cabinet of Ministers of Ukraine No. 90, 2006). This document was a major step towards the development of a modern administrative service system, as it defined key concepts, service quality criteria, and priority areas for reform. The document laid the foundations for the structural organisation of the administrative service delivery process based on the principles of accessibility, transparency, and compliance with the needs of citizens. In 2009, the first legal act to regulate this area was approved – the Temporary Procedure for the Provision of Administrative Services, which defined regulatory aspects and became the basis for further changes (Resolution of the Cabinet of Ministers of Ukraine No. 737, 2009).

However, a decisive impetus for the development of the administrative service delivery system was given by the events associated with the establishment of the first integrated administrative service offices by local self-government bodies (LSGBs). Thus, the establishment of such

offices in Vinnytsia (2008), Ivano-Frankivsk (2010), and Luhansk (2011) became a clear example of an innovative approach to the organisation of administrative services, which encouraged other communities to actively implement analogous initiatives. These offices operated on a 'one-stop shop' basis, where citizens could receive a range of administrative services in convenient and accessible conditions. The introduction of this approach became a driving factor in the development of a service model of public administration that is focused on meeting the needs of citizens. Notably, these initiatives of local authorities not only contributed to the expansion of the network of integrated offices in various regions of Ukraine but also prompted the central government to pay closer attention to the development of this area, as well as to support and improve the legal framework for their activities. The introduction of such innovations stimulated "competition" between local authorities, which later became a significant factor in the dynamic development of the administrative service system.

The central government of Ukraine noticed the popularity and positive perception of integrated offices among citizens, which stimulated the initiation of mandatory measures by the state to implement this concept on a wider scale. In response to this need, the Law of Ukraine No. 5203-VI "On Administrative Services" (2012) was adopted in 2012, which was a crucial step in the legalisation of the administrative services system. The uniqueness of this legislative act lies in the fact that it not only consolidated the category of "administrative services" legislatively but also created an institutional framework for the functioning of integrated offices – administrative service centres (ASC). Notably, this is a rare example among other developed countries where the concept of "administrative services" or its equivalents, such as "public services" or "administrative services", stay mainly in the realm of policy documents and programmes, rather than being prescribed in legal acts. Law of Ukraine No. 5203-VI (2012) thus not only legally formalised the concept of administrative services but also made it mandatory to provide them in a unified form through the ASC system, which subsequently laid the foundation for an efficient, transparent, and customer-oriented structure.

The law defined the principal functions of the ASC, among which the main ones include ensuring fast, accessible and high-quality administrative services to citizens; creating conditions for convenient access to these services, providing consulting support and transparency of processes. The ASC is primarily a front office with a wide range of administrative services. This allows improving the territorial accessibility of services, optimising the process of obtaining services, and ensuring standardised quality of performance. The primary tasks set for the ASCs include the integration of various administrative services into single offices, with a priority on basic (most popular) administrative services, as well as a suitable level of comfort in service: extended reception hours, related services (such as payment), etc. The ASCs are also intended to facilitate the decentralisation of administrative functions, expanding citizens' access to public services even in the most remote communities (Miliienko, 2023).

At the initial stages of development, Ukrainian ASCs faced limitations in the list of available services since most basic services were the responsibility of state bodies (e.g., the State Migration Service, the Ministry of Justice). This complicated the achievement of full integration, as national (central) authorities often resisted the transfer of some of their powers to ASCs. Thus, considerable efforts were required to involve the really basic (most demanded) services to ensure real customer focus and compliance with modern requirements in the field of administrative services. The decentralisation process in Ukraine demonstrated a major positive influence on the dynamics and quality of administrative service delivery through ASCs. The government's initial attempts to implement the provision of executive services through ASCs began in 2014, when the Cabinet of Ministers of Ukraine adopted Order of the Cabinet of Ministers of Ukraine No. 523-p "Certain Issues of Provision of Administrative Services by Executive Authorities through Administrative Service Centres" (2014). However, this was not yet a question of decentralisation (i.e., delegation of powers to local authorities), but only of the possibility of providing certain services in ASCs as front offices. Therefore, this process was slow and inefficient in terms of service integration. Fundamental changes became possible only after the reforms of 2015-2016, which opened new prospects for the decentralised model. In 2015, the adoption of a series of laws laid the groundwork for the delegation of certain groups of administrative services to local authorities. This decision expanded the range of services available to citizens at the local level and accelerated the integration of these services into ASCs.

The digitalisation of administrative services became another key reform that radically changed the way citizens and state institutions interact in Ukraine. Digitalisation, which has been the key trend of government policy in this area since 2019, is aimed at simplifying access to services, reducing bureaucratic procedures, and considerably increasing the transparency of public administration. The primary digitalisation tool in Ukraine is the Diia application, which was launched for mobile devices and has been actively expanding its functionality to cover increasingly more administrative services. As of 2023, the number of users of the Diia application reached more than 19.2 million, indicating high demand and trust in digital services among the population (SIGMA, 2023).

One of the key achievements of digitalisation was the growth in the volume of electronic interagency transactions, which reached 541 million in the first quarter of 2023. This suggests that digital platforms are being actively used by government agencies, which substantially increases the efficiency of interagency functions and optimises data management processes within the country. Thanks to the electronic information exchange system, public institutions can quickly and securely exchange the necessary data, which greatly reduces the need for paper documentation and reduces the number of physical visits by citizens to public institutions. The digital infrastructure in Ukraine has also created new opportunities for entrepreneurship. For instance, the number of individual entrepreneurs registered online in 2023 exceeded 300,000 (SIGMA, 2023). This figure is crucial, as it demonstrates how digital services can support the development of the business environment in Ukraine, especially in an environment where personal presence at government offices can be challenging. The possibility of registering a business online reduces the time and effort required for this process and thus contributes to economic development and job creation.

Another prominent aspect of digitalisation is the introduction of electronic identification services, which allows citizens to prove their identity electronically. This tool has

become especially significant during the COVID-19 pandemic and martial law, when the possibility of visiting public institutions in person was limited. Thanks to electronic identification, citizens can sign documents online, which reduces the need for physical contact and accelerates the provision of many services. Digitalisation has also resulted in the development of numerous services for filing applications, applying for social aid, registering certain civil status acts, obtaining certificates, and many other documents that previously required personal presence. This not only makes life easier for citizens but also contributes to the efficiency of public administration (Borelle *et al.*, 2023). Reduced queues and shorter waiting times are made possible by digitising procedures, which positively affects the overall level of public satisfaction with public services.

Results and prospects for the development of the administrative services system in Ukraine. The evolution of Ukrainian ASCs by 2024 is marked by great progress in the development of client-oriented public administration. The key aspects of this experience demonstrate positive changes in attitudes towards citizens, a focus on improving the quality of services that ensure a strong level of convenience and accessibility. According to research, Ukrainian ASCs have become an example of an integrated approach to citizen-oriented service delivery and are distinguished by unique features (SIGMA, 2023). Many centres provide 200 to 400 types of administrative services covering various areas of public administration and ensuring convenient access to basic services for citizens. This includes civil registration, residence registration, property and business registration, social services, etc. ASCs in Ukraine usually exceed the requirements of the Law on Minimum Reception Hours. For instance, prior to the full-scale invasion, ASCs in Kyiv districts were open from 09:00 to 20:00 daily, and on Saturdays until 18:00. Such extended opening hours facilitate citizens' access to services by reducing queues and waiting times. Most ASCs operate on the principle of an open-space office, with barrier-free premises, children's corners, or rooms for the convenience of visitors. In addition, electronic queue management systems are installed in ASCs, which increases comfort and transparency for citizens and contributes to service efficiency. The use of SMS notifications to inform citizens about the readiness of service results has become a significant part of the ASC's communication strategy. Additionally, the availability of on-site payment options facilitates the process of receiving services.

As of April 2023, the network of ASCs in Ukraine consisted of 1,110 centres, supplemented by 131 territorial units, 2,082 remote workplaces, and 29 mobile ASCs (SIGMA, 2023). This considerable expansion of territorial coverage increases the accessibility of services, especially in remote communities. Selective monitoring, such as the U-Lead results for 2021, demonstrates major success of ASCs in providing delegated services, for instance, residence registration is provided in 100% of ASCs; registration of real estate is provided in 92-96% of ASCs (U-Lead, 2021). At the same time, the services that stay under the jurisdiction of central executive authorities have much lower rates of provision: land registration – 44%; passport services – 32%; pension services – 16%. Thus, the decentralised model provides greater flexibility and motivation on the part of LSGBs, which are more focused on the needs of their citizens. LSGBs are actively expanding the territorial availability of services by creating new access points within their territorial communities. This contributes to a more even distribution of administrative services and increases the availability of services even in remote settlements.

Although decentralisation and the development of ASCs have shown positive outcomes, there is a series of challenges that substantially limit the effectiveness of service integration in ASCs. The main barriers are both practical and theoretical in nature and are caused by certain legal and organisational factors. One of the greatest obstacles to the full integration of services in ASCs is still departmental resistance, which manifests itself in the reluctance of state executive bodies to transfer their powers to local authorities. This phenomenon is particularly noticeable in the centralised service delivery system, where ministries and central authorities conventionally retain control over certain types of services. Registration of civil status acts (births, marriages, deaths, etc.) stays mainly the responsibility of the Ministry of Justice (in Ukraine, there is a mixed model where both local authorities and state bodies have separate powers), and therefore these services are not sufficiently integrated into ASCs; passport services are rendered in only a quarter of ASCs, as these powers fall under the competence of the State Migration Service; car registration is also rarely provided through ASCs. Despite the need for these services, the difficulty lies not only in the excessive cost of special equipment for their rendering, but primarily in the resistance of the agencies.

Furthermore, Ukraine is a large country with 1,470 amalgamated territorial communities, which creates further challenges for the centralised administrative system. It is necessary to ensure the territorial accessibility of service provision throughout Ukraine, in various amalgamated communities that may include dozens of settlements. That is why the decentralised approach, which enables local authorities to take on more responsibilities and exercise them flexibly, is the most effective for Ukraine. However, the lack of support for this approach from the state continues to create difficulties for the optimised provision of certain groups of services.

At the theoretical level, there is a problem of distinguishing certain issues between the science of administrative and constitutional law in Ukraine. Conventionally, the issues of executive power are considered in administrative law, while the issues of local self-government are considered the domain of constitutional law. Such a distinction does not factor in that modern public administration forms an integral system that includes two key subsystems: State executive power and local self-government (as well as the regional level of governance, which is still under development in Ukraine). To ensure holistic and effective governance, it would be advisable to consider combining these aspects within the framework of administrative law, which would enable a coherent consideration of the issues of organisation and operation of public administration in Ukraine.

Legislative requirements for the establishment of an ASC in each territorial community oblige LSGBs, instead of enabling them to independently decide on the organisation and provision of services, as is the case in Western countries. For instance, in Germany, burger bureaus are established in municipalities with a population of exceeding 30,000 people (but even there it is at the free discretion of the municipality), while in Ukraine, the obligation to establish an ASC is imposed by law on each community. This approach carries the following risks: without adequate state funding, many local authorities cannot fully perform their obligations; many

communities lack sufficient staffing, which complicates the implementation of mandatory provisions in practice.

Since 2021, the Government of Ukraine has also established a mandatory minimum list of services that ASCs must provide. Since 2021, this list has been gradually expanded, and currently includes 345 services in district centres, 392 services in cities of regional significance, and 182 services in other communities (Order of the Cabinet of Ministers of Ukraine No. 969, 2021). Such an extended list is often excessive, and not all local authorities possess the resources to meet these requirements. Furthermore, the list contains services that LGEs are admittedly obliged to provide, specifically due to the war, such as services for internally displaced persons, veterans, compensation for damaged property, etc. Many LSGBs are factually in the status of "violators" since they cannot fulfil all the requirements of the list of services. Meanwhile, those local authorities that try to meet all the standards face a considerable increase in staff workload. This leads to queues at ASCs, staff burnout, and turnover.

Maintaining and improving the territorial accessibility of administrative services stays a critical task for Ukraine. In the context of amalgamation of territorial communities, an integrated office in the centre of the community is often insufficient, as it is necessary to maintain access to services in remote settlements that previously functioned as separate communities (before amalgamation in 2020). Legislative norms and practical experience provide several solutions, such as the creation of remote ASC workplaces that are open several days a week or the involvement of "starostas" in service delivery. This allows maintaining the level of access to administrative services and avoiding excessive concentration of services in mega-offices.

Digitalisation also has a series of benefits, such as round-the-clock access to services, reduced corruption risks, and time savings (Ryzhuk *et al.*, 2021). However, this process is accompanied by certain challenges that must be factored in, especially in the context of customer needs. Firstly, not all citizens have sufficient skills or trust in digital services. This requires preserving the offline alternative as an accessible way to receive services. After all, the concept of a service state is based on people, not digitalisation as an end in itself. Refusing to provide an offline alternative or delaying its implementation may lead to discrimination against certain categories of citizens. This situation was observed, for example, during the introduction of the first types of state support for small businesses during the COVID-19 pandemic, as well as during the implementation of some war-related social programmes (specifically, the eCompensation for Damaged Property programme) (Aristovnik *et al.*, 2024).

Since 2019, digitalisation has become a priority of state policy in the field of administrative services, while the process of decentralisation, i.e., delegation of powers to local governments, has virtually stopped. This is an irrational approach, as without decentralisation, the full potential of local governments and their motivation to bring services closer to the population is not used. This is especially significant in the context of territorial accessibility and security in times of war, power outages, etc. An effective combination of digitalisation and decentralisation would help improve the quality of administrative services. Specifically, LSGBs could use the centralised registers and standardised procedures to provide services directly to citizens, helping them to interact with the state. Ukraine still has a considerable untapped potential for decentralisation. For instance, LSGBs could fully take over the area of civil registration, which is currently under the Ministry of Justice and 90% of civil registration services are still rendered by the Ministry's units, car registration (currently under the Ministry of Interior), land registration (StateGeoCadastre), and other significant areas. Some basic services, such as passport, residence, real estate, and social protection registration, stay largely offline due to the need for personal communication and require special attention in terms of accessibility. In this context, it is vital to follow the Council of Europe's recommendations: the approach to the digitalisation of public services should be based on the principle of 100% accessibility, rather than full digitalisation, so that citizens' access to their rights is not limited (Ponti *et al.*, 2022; Doran *et al.*, 2023; Estrela, 2023).

It is worth noting as an achievement that the Ukrainian service delivery system survived the full-scale invasion of the Russian Federation on 24 February 2022. On the one hand, there was a temporary shutdown of electronic registries and, respectively, of many services in the first days and weeks. On the other hand, the system was restored quite quickly, while the government itself introduced many flexible solutions: the principle of extraterritoriality for many services (such as pension services or housing subsidies); prolongation of the validity of many documents (passports, permits); simplification of certain procedures (for instance, exchange of a driver's licence without a medical certificate, etc.), telephone communication and video conferencing, etc. It is crucial that the ASCs proved to be particularly effective, as they became humanitarian hubs and helped internally displaced persons.

A separate problem that needs to be addressed is the "financial and economic" component, specifically, the issue of payment for administrative services. In 2024, about 90% of ASC services are provided free of charge, which is economically burdensome for the local budget. This creates an unfair system, as even services such as business registration, land registration, passport photo affixing, marriage registration, etc., are free or almost free, i.e., financed by all taxpayers. A positive example is provided by paid passport and real estate registration services, which contribute to the financial stability of ASCs, as fees for these services go mainly to local budgets.

Practices in reforming the administrative services sector, specifically those of Poland, the Czech Republic, and individual states of Germany, suggest that it is advisable to establish fixed amounts of administrative fees at the legislative level. Since 2020, the Ukrainian parliament has been considering Draft Law No. 4380 "On Administrative Fees" (2020), which received unanimous support from the relevant parliamentary committee in 2023. At the same time, alternative proposals to have the government, rather than the parliament, determine the fees are unacceptable due to constitutional restrictions (Article 92, paragraph 1, part 2) and the previous negative experience of government "lists of paid services" and other questionable payments in the field of administrative services. Therefore, the adoption of this draft law with transparent and moderate compensatory fees for administrative services would be crucial, especially in the current context of a significant budget deficit.

Deregulation and administrative simplification also continued to be a major area of public policy, involving numerous instruments and approaches. Specifically, the initiatives of the Ministry of Economy and the Ministry of Digital

Transformation in Ukraine, which have been in place since 2021, demonstrate progress in this area (SIGMA, 2023). At the same time, there is considerable potential for further simplification of procedures in Ukraine, for instance, the transition of residence registration to a notification-based system would simplify the process for citizens and ensure better reliability of registers.

The issue of outsourcing and privatisation of administrative services also stays important, but Ukraine's experience in this area is mostly negative. Thus, in 2016-2019, allowing state registration of real estate and business by "accredited entities" (about 100 commercial enterprises) led to numerous cases of raiding, forcing the government to stop this practice in 2019. In the field of passport services, there is still a problem of additional payments for services provided by an enterprise in the field of the State Migration Service compared to the same services at the ASC or the State Migration Service itself, which is extremely questionable from a legal standpoint. Analogous problems exist in the system of state registration of civil status acts of the Ministry of Justice.

In countries with weak legal systems, outsourcing and commercialisation of public services require special care to avoid increasing the cost of services, blurring the lines between public administration and business, and increasing the risk of wrongdoing. Public service delivery by public servants is more economically balanced and ensures a greater level of legitimacy (Kyrychok *et al.*, 2024). Ukrainian administrative law continues to incorporate the concept of administrative services into legal practice and legislation, as evidenced by the adoption of Law of Ukraine No. 2073-IX "On Administrative Procedure" (2022) and the identification of this area as a priority in the Public Administration Reform Strategy for 2022-2025 (2021). The institution of administrative services received due theoretical attention in administrative law textbooks, which indicates its value in the context of humanisation, democratisation, and Europeanisation of administrative law in Ukraine (Melnyk & Bevzenko, 2014). The advantages and disadvantages of ASCs in Ukraine, which reflects the key aspects of their activities, are presented in Table 1.

Table 1. Advantages and challenges of ASCs in Ukraine

Advantages of the ASC	Challenges for ASCs
ASCs provide a wide range of administrative services in one place, which reduces time and effort for citizens	The level of service provision varies from community to community
Versatile staff ensures flexibility and comprehensive service	Difficulty in attracting and retaining qualified staff
Implementation of digital technologies (e.g., online recording, SMS notification of results)	Incomplete digitalisation processes and the need for ASC staff to work in many registers
Extended reception hours and anti-corruption open space in front offices	Heavy workload of ASC employees, especially in large cities, burnout and the problem of recruitment and staff turnover
Many ASCs have been created with the best practices of European countries and even infrastructure solutions (barrier-free, etc.) in mind	Insufficient funding and inadequate regulation of administrative service fees affect the ability of ASCs to improve/maintain service conditions and infrastructure
Better territorial accessibility of services due to territorial units of ASCs, remote workplaces	Military operations and the unstable situation in the country (blackouts, air raids) limit the availability and stability of services in some regions

Source: compiled by the author

ASCs in Ukraine have become key elements of the administrative reform aimed at improving the accessibility and quality of public services for the population. The key advantages of ASCs include the consolidation (integration) of services in one place, an innovative approach to service delivery, convenience, and accessibility for citizens. They provide standardised and structured processes, which increases public trust in the state and local authorities. At the same time, ASCs today face numerous challenges, including a lack of funding, a heavy workload due to the constant expansion of the list of services, and staff shortages and turnover. These factors affect the efficiency of the centres, especially in the context of instability caused by the hostilities. Overall, the development of ASCs requires, first of all, balancing the workload, rationalising, and regulating administrative fees, and adapting to new conditions to meet the needs of citizens for quality public services.

Discussion

The conducted study was essential for a deeper understanding of the role of public administration and administrative law in Ukraine, especially in the context of the current socio-political challenges the country faces in wartime. In the context of war, mass migration, and escalating social conflicts, the public administration system is undergoing considerable changes that require innovative approaches and solutions. The key findings of the study confirmed the trend towards active adaptation and transformation of management practices, which contributed to increasing the efficiency, transparency, and flexibility of public administration. These changes not only responded to the challenges faced by society but also opened new opportunities for innovation in public administration. To a large extent, the successful implementation of reforms in public administration can not only ensure stability in the country but also strengthen public trust in public institutions. The study also emphasised the significance of integrating the latest technologies and practices into administrative processes.

O. Zubko *et al.* (2023) focused on the development of the public administration paradigm in Ukraine in the context of constant reform and the effects of external aggression. Their study is notable for emphasising the need to humanise governance mechanisms by focusing on personal values and social responsibility. This reveals the significance of national contexts in the development of management theory and practice. The present study is comparable with the cited study in that it also explored the evolution of the concept of public administration. However, O. Zubko *et al.* (2023) placed greater focus on the overall optimisation of national legislation and adaptation to international governance principles. The present

study analysed administrative services in Ukraine more specifically and assessed national efforts to develop this area. The originality of the present study lies in the concrete focus on the doctrine of administrative services as part of the state apparatus that contributes to ensuring the rights of citizens.

K. Warren's (2018) study was limited to the context of US administrative law, focusing on the regulatory role of administrative agencies and their accountability. The study revealed a shared approach to the study of public administration, but the analysis focused on the Ukrainian practices with an emphasis on national reforms in the field of administrative services. Despite the difference in contexts, both studies emphasised the value of democratic accountability and transparency as fundamental principles of administrative law.

C. Harlow (2006) focused on the possibility of creating a global system of administrative law, analysing the prospects for the development of universal principles of good governance, the rule of law and human rights. The study also questioned the effectiveness of such an approach, emphasising the risks of negative impact of "Western" administrative law principles on developing countries. This study added a critical element to the topic, suggesting that the universalisation of administrative law should be avoided and that the cultural and economic context of diverse regions should be recognised. The conducted study developed the idea of the significance of these principles in the Ukrainian context, emphasising that the adaptation of effective international approaches is a vital part of the process. Both studies addressed the national aspects of administrative service delivery.

V. Lapuente and S. Van de Walle (2020) analysed the effects of the New Public Administration reforms on the quality, efficiency, and effectiveness of public service delivery, emphasising that their success or failure depends on the administrative, political, and policy context where they are implemented. The studies emphasised the value of adherence to the principles of transparency, accessibility, and accountability in public administration.

Y. Uzun and S. Koch (2020) highlighted potential scenarios for the development of decentralisation, which is significant for the overall administrative structure of Ukraine. The present study complemented this analysis by covering concrete aspects of public service reform that are part of decentralisation. C. Dick-Sagoe (2020) argued that while decentralisation has led to some improvements in service delivery, the issue of service quality stays significant to ensure transparency and accountability of local governments. Consistent with their findings on structural challenges, the present study highlighted the need to develop more sustainable models of administrative services that meet both regional and national requirements. S. Khadzhyradieva *et al.* (2020) analysed public administration reforms and emphasised the value of decentralisation and anti-corruption measures, which are key components of the administrative services doctrine. The present study elaborated on these aspects, focusing on the significance of transparency and accountability of administrative services for achieving national goals. At the same time, S. Khadzhyradieva *et al.* (2020) concluded that the historical context of the reforms provides a broader perspective on achieving Ukraine's strategic goals on the global stage. That comparison of the present findings with other studies demonstrated the importance of shared principles, such as transparency and accountability, for the effective implementation of administrative service reform. Thus, the study harmoniously complemented existing findings, expanding the analysis of administrative services as an integral part of the overall reforms aimed at strengthening Ukraine as a democratic and rule-of-law state.

Conclusions

Ukraine's practices in implementing the administrative services doctrine demonstrated great achievements in public administration. The introduction of integrated administrative service offices, such as ASCs, and the active expansion of the network have become essential steps towards making the state system more human-centric and transparent. The idea of administrative services has become part of Ukrainian administrative legislation and an integral part of public administration. The introduction of deregulation, decentralisation, digitalisation, and transparency in the provision of administrative services has greatly influenced the efficiency of public authorities. Deregulation and administrative simplification should strike a balance between protecting the public interest and making administrative services easier to access. Integrated physical offices continue to be one of the primary channels of access to administrative services, specifically to basic (most popular) services. After a period of dynamic growth in the number of ASCs and expansion of the list of services, the key task was to balance the system. One of the key aspects is to maintain proper working conditions for ASC staff, including optimisation of the list of services, balanced reception hours, and convenient working hours.

The decentralisation policy has been successful, as the delegation of administrative service delivery to LSGBs has contributed to the increased integration and comprehensiveness of these services. Local authorities ensured a stronger level of adaptation of services to the needs of citizens, as they work directly with local residents, enabling them to respond flexibly to the challenges and needs of communities. Digitalisation is certainly a promising area for the development of administrative services. At the same time, it is vital to adhere to the principle of inclusiveness to ensure access to services for citizens who do not have sufficient digital skills or access to digital technologies. The principle of accessibility requires not only online access, but also the possibility of receiving services through other channels, specifically through local authorities and their ASCs.

Deregulation is a prominent area that has helped to balance the freedom and efficiency of administrative procedures. However, in this process, it is essential to strike a balance between simplifying procedures and preserving the protection of the public interest. The issue of administrative fees also needs attention, as reasonable administrative fees are fair and ensure the sustainability of the system. It is also significant to develop reasonable approaches to service fees to ensure fairness and accessibility, specifically regarding the possibility of additional services or expedited service. Outsourcing and competition in administrative services are still quite controversial. These concepts are of concern because of the possible increased risk of blurring the boundaries between the public and private sectors, which could affect transparency and accountability in service delivery. Promising areas for further research include analysing the effects of digitalisation on citizen satisfaction, as well as exploring the possibilities of adapting the administrative service system to crisis conditions, specifically through flexible emergency management models.

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Conflict of interest

None.

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Практика України в реалізації доктрини адміністративних послуг

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Анотація. Метою цього дослідження був аналіз практики реалізації в Україні доктрини адміністративних послуг, яка стала основою нової моделі взаємодії держави і громадян. Предметом дослідження стали концептуальні та практичні аспекти інтеграції адміністративних послуг на рівні територіальних громад, з акцентом на ролі децентралізації, яка забезпечує більшу доступність та якість адміністративних послуг завдяки гнучкості та ефективності місцевого самоврядування. Методологія дослідження ґрунтувалася на аналізі нормативно-правових актів, вивченні успішних практик роботи центрів надання адміністративних послуг (ЦНАП), а також порівняльному підході, що дозволило виявити переваги та виклики української моделі в контексті міжнародних практик. Результати дослідження продемонстрували успішність інтегрованих офісів надання послуг у громадах. Інтегровані офіси, зокрема ЦНАП, забезпечують швидкий доступ до базових послуг, а децентралізація сприяла ефективному управлінню ресурсами на державному та місцевому рівнях, що дозволило краще адаптувати послуги до потреб мешканців. Цифровізація послуг підвищила їхню ефективність завдяки мінімізації бюрократичних перешкод та скороченню витрат часу. Однак однією з ключових проблем є нерівномірний доступ до цифрових послуг, особливо в сільській місцевості та для людей похилого віку. Крім того, брак фінансування та надмірно централізовані норми і стандарти створюють перешкоди для органів місцевого самоврядування, обмежуючи їхню автономію та здатність швидко реагувати на запити громади. Водночас, деякі аспекти аутсорсингу та конкуренції є дуже суперечливими через ризики комерціалізації публічних послуг. Результати дослідження показали, що практика реформування сфери адміністративних послуг в Україні сприяє європеїзації та гуманізації державного управління та адміністративного права, посиленню його орієнтації на громадянина. Окремі аспекти цих практик можуть бути цікавими для інших країн

Ключові слова: інтегровані офіси; центри надання адміністративних послуг; децентралізація; діджиталізація; аутсорсинг

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Difficulties in justification of legal norms as a feature of democratic transformations in Albania

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Abstract. The purpose of the study was to highlight the key aspects of the establishment of legal norms in the context of democratic transformations in Albania and their determining impact on the evolution of the state legal system. The paper, used historical, comparative, and system analysis methods, examined the historical context and specifics of the development of the legal field of Albania after the end of the communist period, analysed the correlation of traditional legal practices of the Albanian community with democratic norms, and identified current challenges of legal legitimation and law enforcement in the context of European integration processes. The results showed that, despite the adoption of substantial legislative acts and initiatives, the effective implementation of legal norms remains problematic. Deep-rooted traditional practices such as the customary law of Kanuni and Lekë Dukagjinit, corruption, political instability, and a lack of legal culture of the population prevent the effective implementation of democratic norms. The study identified a persistent gap between legislative reforms and their practical enforcement, demonstrating that formal legal adaptation does not always translate into effective governance. Additionally, the analysis highlighted the crucial role of judicial independence and anti-corruption measures in ensuring the sustainability of legal transformations. The findings suggested that while Albania has made significant progress in aligning its legal framework with European standards, systemic challenges continue to hinder the full integration of democratic principles into legal practice. The results highlighted that the difficulty of justifying legal norms in Albania is not only a legal problem but also a social and cultural one. This indicated the need for a comprehensive approach to reforming the legal system, considering the historical legacy, traditional values, and mentality of society. The findings of the study are important for the successful democratisation of Albania's legal system, as they point to the need to reconcile traditional and democratic norms, strengthen institutional capacity and increase citizens' confidence in the judicial system

Keywords: corruption; traditions; blood feud; judicial reform; European integration; legitimation

Introduction

The establishment of a democratic system in Albania after the fall of the communist regime in 1991 was accompanied by substantial difficulties in legitimising and implementing legal norms, which created substantial obstacles to the country's European integration. This issue has become particularly pressing in light of the initiation of accession negotiations with the European Union (EU) in October 2024. Despite this progress, Albania has yet to fully meet several

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critical EU accession requirements, including the effective implementation of judicial reforms, the intensification of anti-corruption measures, and the resolution of bilateral disputes with neighbouring countries. These outstanding issues underscore the necessity for comprehensive legal and institutional reforms to align Albania's governance structures with EU standards. The lack of effective enforcement mechanisms and the low level of public confidence in state institutions pose substantial challenges to democratic consolidation (Anastasi, 2024). The need to address these challenges is growing in light of the EU's growing demands for the rule of law and the functioning of democratic institutions in candidate countries. The relevance of the study is also due to the need to develop effective mechanisms to bridge the gap between the formal consolidation of democratic norms and their practical implementation in Albanian society.

The analysis of the scientific literature shows that researchers pay considerable attention to various aspects of democratic transformation in Albania. The fundamental aspects of constitutional development were explored by A. Anastasi (2024), who focusing on the importance of supranational European identity. The author emphasises the need to strengthen the ways of protecting citizens' rights provided for in the Constitution of the Republic of Albania (2016), and concerns about too frequent amendments to it, which is often due to political opportunism. The researcher pays special attention to the analysis of the "integration clause" in the Constitution and its role in the formation of the country's supranational identity. M. Kamolli (2020) explored the problems of transitional justice and reparations, which is important for understanding the legal challenges of the transition period, namely the issue of compensation for damages to former political prisoners in post-communist Albania, focusing on the limited effectiveness of transitional justice measures through the politicisation of the process. The results of the study showed that not only cash payments are important for the recovery of former political prisoners but also the ability to work with archival documents, receive apologies, feel restored justice and expand their social and political rights.

An important contribution to the understanding of lustration problems was made by V. Ndrepepaj (2020), who conducted a detailed analysis of the lustration legislation of Albania, using a three-stage research method and a combination of classical methods of legal analysis, which directly concerns the problems of legal justification. The researcher identified the main reasons for the ineffectiveness of lustration laws related to both their development and implementation. The author's work contains important conclusions about the need to improve lustration mechanisms in the context of democratic transformation. He expanded this study and stressed the problems of implementing lustration and verification laws, which shows the difficulties of law enforcement by E. Reka (2020). The author focused on the examination of transitional justice and lustration processes in Albania, noting the lack of political consensus on the assessment of human rights violations during communism. The author emphasises that the lustration process was not transparent and was conducted by impartial institutions, which did not contribute to the restoration of public confidence in state institutions. The researcher also analyses the new law of 2015 containing lustration measures and its implementation.

A. Dedej (2023) considered the legal factors of civil society development, which is important for understanding democratic transformation. The researcher conducted a comprehensive study of the historical and legal factors of the formation of civil society in Albania, emphasising the negative impact of the 45-year communist period. The author analyses the current legal framework for non-profit organisations and its compliance with international standards. The researcher pays special attention to the problem of distrust of public organisations, which has roots in the communist past. I. Stasa (2021; 2023) examines the relationship between transitional justice measures and strengthening the rule of law, highlighting the negative impact of "amnesia" about the totalitarian past on democratic processes. The author emphasises the importance of creating a "space" for working with the past and criticises the political elite for ignoring issues of transitional justice. The researcher also analyses the problem of using archival materials as a tool of political blackmail.

In turn, A. Balliu (2020) conducted a qualitative analysis of judicial reform in Albania as a fundamental element of the fight against corruption and the process of European integration. The researcher examines the EU's role in this process and evaluates the progress made before the accession negotiations begin. The author provides recommendations on further steps towards EU membership. G. Margariti (2022) focuses on the problems of democratic consolidation in Albania using the qualitative case study method. He analyses the role of political elites in the process of democratisation and identifies their authoritarian tendencies. The author predicts the possibility of a rollback to facade democracy or competitive authoritarianism due to the weak commitment of political elites to democratic values.

A. Pirdeni (2020) examined the relationship between the implementation of the rule of law principles and the progress of internal reforms, focusing on judicial reform. The study identifies differences in the dynamics of reform and provides a comparative analysis of transformations in Albania and other countries in the region. The scientist notes the importance of systematic assessment of compliance with the criteria of the rule of law. J. Myftari (2024) focused on the specifics of democratic consolidation and the influence of political elites on this process. The paper explores how legal materialism affected the formation of the Albanian state during the communist period and its echo in modern legal development. The researcher justifies the need for comprehensive consideration of formal and material aspects of legal regulation. The need to develop an effective legal system that meets the needs of Albanian society is emphasised. V. Laska (2023) focused on the activities of political parties in the process of constitutional development of Albania after 1991. The study substantiates the key importance of political forces as a link between the state and society in the process of democratic transformation.

The purpose of the study was to identify and systematise key problems in the field of justifying legal norms in the context of democratic transformations in Albania to assess their impact on the effectiveness of the country's legal system. The following tasks were: analyse the specific features of interaction between traditional legal customs of Albanian society and new democratic legal norms, identify key contradictions and conflicts in the process of their legitimisation; describe current problems in the field of legal justification and law enforcement in Albania, in particular, in the context of European integration and bring national legislation in line with EU standards.

Materials and methods

The study was based on several conceptual and theoretical approaches, which were determined by the purpose of analysing the features of legal transformations in Albania in the context of democratic transformations. The basis was the theory of the rule of law and its principles, in particular, the concept of legitimation of legal norms, revealing their ability to be perceived and recognised in society as the basis for democratic development. Theories about the interaction of traditional customary norms with modern democratic principles in societies that were in transition were also studied. Based on the theoretical framework, the paper also used the concept of legal integration in the context of European integration aspirations, based on the recommendations of the Accession Criteria (Copenhagen Criteria) (1993), reflecting the compliance of the legal system with democratic standards.

The research methodology included a combination of a historical method for examining the transformation processes of the legal system after the fall of the communist regime, a comparative method for comparing Albanian legal norms with European standards, and a synergistic analysis that allowed investigating the interaction between traditional and modern law in Albania. The historical method allowed describing in detail the main stages of legal reforms, outlining the evolution of legislative initiatives and institutional changes in Albania from 1990 to 2024. The comparative method was used to analogise the historical experience of integrating traditional law into the official legal system using the example of English case law, which has been successfully transformed into the official system of judicial precedents since the Middle Ages, and Albanian customary law (Kanuni), as well as identify specific contradictions between traditional legal norms of Albania and modern democratic norms of the EU. The method of system analysis was used to assess the structural interaction of internal and external factors affecting the effectiveness of legal reforms in the context of European integration.

In respect of the sources used, the main source framework included normative legal acts, in particular, the Constitution of the Republic of Albania (1998), Law of Albania No. 7491 "On Main Constitutional Provisions" (1991), No. 9877 "On the Organization of the Judicial Power" (2008), as well as the constitutional amendments introduced in Law of Albania No. 76/2016 "On Some Additions and Amendments to Law of Albania No. 8417 "Constitution of the Republic of Albania", as Amended" (2016) and Law of Albania No. 115/2016 "On the Justice System Oversight Bodies" (2016). International instruments such as the Stabilization and Association Agreement No. 87 Between the European Communities and their Member States, and the Republic of Albania (2006), Final Opinion of Venice Commission No. 824/2015 "On the Revised Draft Constitutional Amendments on the Judiciary of Albania" (2015) and other recommendations of European institutions forming the legal basis for integration processes were examined. The analysis of the information also included statistics from the rule of law indices and corruption ratings from Transparency International and the World Justice Project (2023), which were used to assess the effectiveness of legal changes. Press releases, analytical reports, in particular, from the Ministry of Justice of the Republic of Albania (2011) and civil society organisations, have become additional sources covering the state of law enforcement. The validity of the proposed structure is confirmed by its compliance with the European Council in Copenhagen "Conclusions of the Presidency" (1993) for assessing the progress of candidate countries. On the basis of this, a diagram was created on the problems of legal justification in the context of European integration. The final stage was the synthesis of the obtained data to form recommendations for improving the legal system of Albania based on international experience and European requirements.

Results

Historical background and features of the formation of the legal system of Albania after the fall of the communist regime. After the fall of the communist regime in Albania in 1990, the country faced the difficult task of creating a new legal system that would comply with the principles of democracy, the rule of law, and the protection of human rights. The communist period was marked by centralised power, where the Albanian Labour Party had a monopoly role in public administration, which was enshrined Constitution of the Socialist People's Republic of Albania (1976). This Constitution did not provide for the distribution of power and independence of the judicial system, which led to systematic violations of citizens' rights and freedoms. In particular, Article 3 of the Constitution proclaimed that the Albanian Labour Party was the only governing force of the state and society, which effectively legalised the one-party system and the suppression of political pluralism.

The process of dismantling the communist legal system began with the approval of the Law of Albania No. 7491 "On Main Constitutional Provisions" (1991). This law established the basis for the transition period, recognising for the first time the principles of multiparty model, private property, and a market economy. Article 2 of this law enshrined the principle of popular sovereignty in the Republic of Albania, and Article 3 defined the division of state power into three branches – legislative, executive, and judicial. However, despite these innovations, the old management structures and mechanisms remained in practice, which complicated the process of reforming and justifying new legal norms.

The formation of the new legal system took place in several stages, each of which was characterised by its own characteristics and challenges. The first stage (1991-1998) was aimed at creating the main institutions of democracy and adopting a new Constitution. The adoption of the Constitution of the Republic of Albania (1998) played a decisive role in the development of Albania as a state governed by the rule of law. The Basic Law approved the fundamental principles: the rule of law, the separation of powers, and the independence of the judiciary. In particular, Article 7 stipulates that "state governance is based on a system of distribution and balancing of the legislative, executive, and judicial branches of government". The second section of the document establishes the fundamental rights and freedoms of citizens, including the right to life, freedom of expression, and fair trial. Therewith, a textual analysis of the 1998 Constitution reveals some gaps. Although the document proclaims the autonomy of the judiciary, specific mechanisms for its implementation are not sufficiently spelt out. Thus, Article 136 defines the procedure for appointing judges by the president of the Republic on the recommendation of the High Council of Justice (Këshilli i Lartë I Drejtësisë), but does not contain detailed qualification requirements and procedures, which creates risks of political pressure on the judicial

system. An additional disadvantage is the lack of clear wording regarding the disciplinary responsibility of judges, which can contribute to corruption and official abuse.

The second stage (1998-2016) was marked by a course of rapprochement with European institutions and bringing domestic legislation in line with EU standards. The signing of the Stabilization and Association Agreement No. 87 between the European Communities and their Member States, and the Republic of Albania (2006) imposed an obligation on Albania to implement comprehensive transformations in the areas of judicial proceedings, anti-corruption, and human rights. To this end, a number of regulations were introduced to update the judicial system, in particular, Law of Albania No. 9877 "On the Organization of the Judicial Power" (2008). The document provided for structural changes in the judicial system, updating the procedure for appointing judges and expanding the powers of the High Council of Justice. However, the implementation of these innovations was not effective enough due to the preservation of previous schemes of political intervention and corruption practices.

The third stage (2016-2024) began with the adoption of a large-scale judicial reform known as "Paketë e Reformës në Drejtësi". This reform was initiated under pressure from the international community, in particular, the EU and the United States, which demanded real steps in the fight against corruption and strengthening the rule of law. One of the key elements of the reform was the creation of an Independent Qualification Committee (Komisioni i Pavarur i Kualifikimit), which is responsible for re-evaluating (vetting) judges and prosecutors based on the criteria of professional competence, moral integrity, and legality of the origin of property. The legal assessment of this reform shows its compliance with international standards and recommendations of the Venice Commission of the Council of Europe. For example, in Final Opinion of Venice Commission No. 824/2015 "On the Revised Draft Constitutional Amendments on the Judiciary of Albania" (2015), the Venice Commission supported constitutional changes aimed at strengthening the independence of the judiciary and combating corruption.

The process of justifying legal norms in Albania was influenced by both internal and external factors. Internal factors were the historical legacy of the totalitarian regime, the lack of a legal culture, and deep-rooted corruption. External factors were the requirements and recommendations of international organisations, in particular, the EU, the Council of Europe, and the OSCE (Organisation for Security and Co-Operation in Europe). Political instability and polarisation of political forces have led to inconsistency in the legislative process and resistance to reform on the part of interest groups. For example, opposition parties often blocked the adoption of important legislative acts, which made it difficult to implement reforms and increased citizens' distrust of state institutions.

For a deeper understanding of the complexity and versatility of the transformation process of Albania's legal system, a table is proposed that contains data on the country's international indices and ratings in the field of the rule of law and corruption (Table 1).

Table 1. Albania's position in international rule of law and corruption rankings (2000-2023)

Year	Rule of law index*	Transparency International Rating**
2000	N/A	81/90
2005	N/A	126/159
2010	0.44	87/178
2015	0.52	88/168
2020	0.50	104/180
2023	0.48	98/180

Note: *the rule of law index according to the World Justice Project (0 points is the lowest, 1 is the highest); **place in the Transparency International ranking of 180 countries (the higher the place, the higher the level of corruption)
Source: compiled by the authors based on World Justice Project (2020; 2023), Trading Economics (2024), M.D. Agrast *et al.* (2010), J.C. Botero and A. Ponce (2015)

The presented statistical indicators reveal the practical dimension of the problem of justifying legal norms in the process of democratic transformation of Albania, demonstrating a clear relationship between the quality of law-making and the effectiveness of reforms. Fluctuations in the rule of Law Index and positions in the corruption rating reflect a fundamental problem – the gap between the formal implementation of legal norms and their real legitimisation in society. The first period of democratic transformation was characterised by the lack of a systematic approach to law-making, which is reflected in the critically low indicators of the early 2000s. The mid-2000s show the deepest crisis in the process of legal transformation, which coincides with a period of political instability and lack of consensus on the direction of reforms. The gradual improvement of indicators in 2010-2015 indicates the first successful attempts to systematically substantiate legal norms, which coincides with the period of active European integration and adaptation of legislation to EU standards. However, the further deterioration of the rule of Law Index demonstrates that even the presence of external support and guidelines does not guarantee the success of reforms without proper internal justification for legal changes.

Especially substantial is the period after the judicial reform of 2016 (Law of Albania No. 76/2016, 2016), when, despite large-scale legislative changes, statistical indicators do not show substantial improvement, which indicates the persistence of systemic problems in the process of justifying and implementing legal norms. The analysis of the dynamics of indicators also identifies a direct link between the level of corruption and the effectiveness of legal reforms – the periods of the lowest indicators in the Transparency International rating coincide with the stages of the greatest difficulties in the process of justifying and implementing new legal norms (Trading Economics, 2024). This confirms the thesis about the need for an integrated approach to legal reform, where the fight against corruption should be an integral part of the process of justifying legal changes (World Justice Project, 2020). International ratings also reflect the complexity

of the process of transforming the legal consciousness of society, which must not only adopt new legal norms but also integrate them into its daily practice. The lack of stable progress in indicators indicates the need to rethink approaches to substantiating legal norms: from formal law-making to a comprehensive process that considers the specific features of the transition period, the need to develop legal institutions and overcome the legacy of the authoritarian past. Statistics also indicate the cyclical nature of problems in the process of legal transformation, when periods of progress are replaced by regression, which may be due to insufficient attention to long-term planning and justification of legal changes, and the impact of political instability on the process of reforming the legal system.

An assessment of the effectiveness of the reform of the Albanian legal system shows that, despite substantial progress in the legislative support of democratic principles, the practical implementation of legal norms faces serious challenges. Corruption remains one of the main problems that undermines citizens' confidence in state institutions and the judicial system (Lazaj *et al.*, 2024). The insufficient level of legal culture and education among the population complicates the process of democratisation and the formation of civil society. Political instability and polarisation negatively affect the effectiveness of reforms, lead to inconsistencies in the implementation of legislative initiatives, and hinder long-term planning. The transformation of Albania's legal system after the fall of the communist regime is a complex and multifaceted process, accompanied by numerous difficulties in justifying legal norms. The historical legacy of the totalitarian regime, the lack of traditions of the rule of law, corruption, and political instability are the main factors influencing this process. Despite the adoption of important legislative acts and initiatives, their effective implementation remains problematic.

Interaction of traditional legal customs and new democratic norms. Albania's traditional legal system has deep historical roots and is based on customary law known as Kanuni and Lekë Dukagjinit. Kanuni (1989) is a collection of customary rules and regulations that govern various aspects of Albanian society, including family relations, property, marriage, inheritance, and conflict resolution. It has been formed over the centuries and reflects the social structure, moral values, and traditions of the Albanian people. During periods of lack of a strong central government or during foreign rule, Kanuni served as the main source of law for many Albanians, especially in the mountainous regions in the north of the country, where the influence of state institutions was limited. One of the key features of Kanuni is the institute of blood feuds, known as "gjakmarrja". This practice implies the right and duty of the family of the victim of murder or grievous insult to retaliate against the perpetrator or their family. A blood feud is considered a means of restoring honour and justice, and a mechanism for deterring future offences. However, it leads to cycles of violence and prolonged intergenerational conflicts, which negatively affect the security, stability, and social development of society. In addition, Kanuni regulates property issues where preference is given to men and women are often excluded from the process of inheritance and ownership of property. Family relations are dominated by patriarchal norms, where the role of women is limited, and marriage agreements can be concluded without her consent.

With the establishment of a democratic system and the adoption of the Constitution of the Republic of Albania (1998), the state undertook to implement the principles of the rule of law, the protection of human rights and democratic freedoms. The Constitution declared Albania a state governed by the rule of law, where all citizens are equal before the law, and human rights and freedoms are inviolable. In particular, Article 21 guarantees the right of everyone to life, Article 18 establishes equality before the law and prohibits discrimination, and Article 54 protects the rights of children and the family. Accordingly, practices such as blood feuds, gender discrimination, and forced marriage are incompatible with constitutional principles and are officially prohibited. The contradictions between the traditional customary law of Kanuni and the new democratic legal norms are manifested in conflicts between customary practices and state legislation. Despite the official prohibition of blood feuds and other customary practices, they continue to exist in some regions, which undermines the authority of the state justice system and creates parallel legal systems. This leads to legal uncertainty, complicates the rule of law, and violates human rights. The lack of an effective state presence in remote regions, low levels of trust in the courts and police, corruption and bureaucracy contribute to the fact that the population continues to rely on conventional conflict resolution mechanisms.

Albania's public authorities are trying to implement mechanisms for adapting legal norms aimed at integrating traditional practices into the modern legal system or gradually replacing them (Xhafka *et al.*, 2024). One of these mechanisms is the development and implementation of legal education programmes aimed at raising public awareness of state laws, rights and obligations of citizens. The Ministry of Justice of the Republic of Albania (2011) has initiated National information campaigns aimed at clarifying the negative consequences of blood feuds and the importance of applying to state courts for conflict resolution. These campaigns include the dissemination of information materials, seminars, and meetings with communities and the involvement of the media and social networks to convey important information to the general public. In addition, reconciliation commissions (Komisionet E Pajtimit) were established, which work at the local level and consist of respected and respected members of the community – elders, religious leaders, educators, and other influential people. These Commissions Act as mediators in conflicts between families, trying to achieve a peaceful resolution of disputes and prevent the escalation of violence. They cooperate with government agencies, police, and judicial institutions, which helps establish trust between the population and the authorities, as well as promotes the implementation of state laws at the local level. Reconciliation commissions are an example of combining traditional practices with modern legal norms, which can be effective in the process of legal integration.

In the sphere of family relations, the state has adopted Family Code of Albania (2003), which establishes equal rights for men and women, freedom to choose a partner, prohibits forced marriage, and protects the rights of children. In practice, however, violations of these rights continue to occur, especially in rural areas, where traditional norms have a strong impact. The state implements measures to raise public awareness, supports the activities of non-governmental organisations working in the field of protecting the rights

of women and children, and implements educational programmes in schools and communities to overcome these problems. In turn, in the area of property and inheritance, traditional Kanuni norms provide for male inheritance and collective family property, which leads to discrimination against women and conflicts over land rights. Democratic legal norms enshrined in Civil Code of the Republic of Albania (1994), establish individual ownership and equality in inheritance regardless of gender. Judicial reform is being implemented, a single land cadastre is being created to ensure transparency and legal certainty of property rights, mediation mechanisms are being introduced to resolve land disputes, and legal education of the population is being conducted to solve problems in this area.

Comparing the situation in Albania with the judicial system of England, where judicial precedent is the basis of the legal system, one can find both similarities and differences. In England, case law (common law) is formed on the basis of the judgments of higher courts, which become binding on lower courts when considering similar cases (Judicature Act of Supreme Court, 1873; Judicature Act of Supreme Court, 1875). This ensures consistency, predictability, and stability of legal regulation, as courts adhere to established legal principles and apply them to new situations. Judicial precedent in England is an officially recognised part of the legal system, integrated into the state structure and supported by law.

In Albania, the traditional customary norms of Kanuni play a similar role in regulating public relations, especially in areas where the state legal system is not effective or accessible. However, these rules are not integrated into the official legal system and often contradict it. The lack of mechanisms to recognise and adapt useful aspects of customary law to modern legal norms limits the possibilities of legal integration and creates tension between the state and local communities. Table 2 shows that effective transformation of the legal system in Albania requires an integrated approach that considers cultural characteristics and actively involves local communities in the reform process. Only under such conditions can sustainable changes be achieved and a democratic state governed by the rule of law be built, where the rights and freedoms of every citizen will be protected, and legislation will meet the needs and values of society.

Table 2. Difficulties in justifying legal norms during the democratic transformation in Albania

Area of legal regulation	The traditional justification of legal norms	Democratic justification of legal norms	Difficulties in justification	Coping mechanisms
Conflict resolution	Blood feud (gjakmarrja) as a means of restoring honour and social balance according to the Kanuni; provides deterrence of offences for fear of revenge	The right to life and a fair trial (Constitution of the Republic of Albania, Article 21); the rule of law and the state's monopoly on the use of force	A deep-rooted tradition perceived as a moral duty; distrust of a corrupt and inefficient judicial system	Judicial reform to increase confidence; legal education of the population; reconciliation commissions; international support for the consolidation of justice
Family relations	Patriarchal norms, where the authority of the husband is unconditional; marriage agreements without the consent of the woman; women as guardians of the honour of the family	Equality of rights of men and women (Constitution of the Republic of Albania, Article 18); freedom to choose a partner; protection of children's rights	A contradiction between traditional gender roles and modern principles of equality; the resistance from conservative communities	Educational programmes to change stereotypes; legislative measures to protect women's rights; support for NGOs and international organisations; involvement of local leaders in promoting gender equality
Property and inheritance	Inheritance only through the male line; collective family property as a means of preserving generic property; women are excluded from the right to inheritance	Individual property rights; equality in inheritance regardless of gender (Civil Code of the Republic of Albania, 1994)	Conflict between collective and individual values; discrimination against women; lack of legal certainty due to unregistered property rights	Land reform for registration of property rights; legal assistance and advice; programmes to raise legal awareness; mediation in land disputes
Social justice and equality	Social structure according to the Kanuni, where status is determined by gender and traditions; limited social mobility	The principle of equality of all citizens before the law (Constitution of the Republic of Albania, Article 18); opportunities for social mobility through education and work	Resistance to changes in social hierarchy; unequal access to resources and services; regional imbalances	State regional development programmes; investment in infrastructure and education; fight against corruption; promotion of equal access to opportunities
Justice and law enforcement agencies	Traditional dispute resolution mechanisms involving elders; distrust of state institutions	Independent judicial system; professional law enforcement agencies; compliance with international human rights standards	Corruption and inefficiency of courts; insufficient funding; influence of local elites on justice	Judicial reform; training and salaries of judges and police officers; international technical assistance; monitoring and accountability

Source: compiled by the authors based on Civil Code of the Republic of Albania (1994), Constitution of the Republic of Albania (1998), Family Code of Albania (2003), Albania 2023 Human Rights Report (2023)

Table 2 shows how, in various areas of legal regulation, the traditional legal norms of Kanuni conflict with the democratic legal norms enshrined in the official legislation of Albania. The main problem areas, such as conflict resolution, family relations, property, and inheritance, are illustrated, showing characteristic traditional practices, relevant democratic norms, existing conflicts, and mechanisms used to resolve them. This helps to understand the complexity of the legal integration process and the need for an integrated approach to overcome the contradictions between customary and positive law.

Overcoming the contradictions between established traditional norms and the principles of democratic law requires the formation of balanced approaches, considering the cultural specifics and interests of local communities. It seems appropriate to introduce a mechanism for implementing those elements of customary law that are consistent with fundamental human rights and the rule of law in the national legal system. This approach can ensure the perception of legal innovations by the population and strengthen the authority of state bodies. Expanding the participation of territorial communities in the rule-making process and law enforcement is of paramount importance (Mazur & Flogaitis, 2023). Organising public consultations on legislative initiatives, ensuring public discussion, and considering the positions of local authorities and specialists will have a positive impact on the quality of legal transformations and their public approval. The formation of an appropriate level of legal awareness through education, especially among the younger generation, creates prerequisites for rethinking traditional practices that do not correspond to democratic values (Shahini, 2024).

Cooperation with international partners is a determining factor in legal integration. The Stabilization and Association Agreement No. 87 between the European Communities and their Member States, and the Republic of Albania (2006) outlines ways to implement pan-European standards in the areas of judicial proceedings, human rights protection, and the rule of law. Cooperation with the EU and other international institutions opens up opportunities for obtaining expert support, sharing practical experience, and attracting resources for the development of state institutions and the public sector. It is observed that the alignment of traditional legal practices with modern democratic norms in Albania requires a systematic and comprehensive examination of numerous aspects. The effectiveness of legal harmonisation is determined by the state's ability to align the regulatory framework with the local context while maintaining the basic principles of human rights protection and legality. Strengthening judicial institutions, combating corruption, and ensuring the openness and responsibility of government structures remain priority tasks. Substantial components of successful legal transformation are the development of public initiatives, legal education, and active involvement of local communities. Such an integrated approach creates the basis for the formation of a state governed by the rule of law, which guarantees the protection of citizens' rights and reflects public needs and values.

Characteristics of modern problems of legal justification in the context of European integration. On the path of European integration aspirations, Albania faces a number of difficulties in providing legal support and bringing its domestic legislation in line with EU standards. European integration progress involves a thorough examination of the legal requirements of the Union, research of ways to bring legislative systems closer together, clarifying law enforcement problems, and monitoring the implementation of European standards. It is worth emphasising that the EU defines specific conditions for potential member states that cover a wide range of issues of governance and organisation of public life. The basic requirements include the development of sustainable democratic institutions, the establishment of the rule of law, respect for human rights, and ensuring the rights of minorities, which was enshrined in the decisions of the Accession Criteria (Copenhagen Criteria) (1993).

The European Commission Reports on Albania (2020-2024) provide a detailed overview of Albania's progress in the context of its European integration, highlighting the challenges it faces in reforming its legal system. These reports specifically address the difficulties in justifying and implementing legal norms, which is crucial for Albania's democratic transformation. In the European Commission Report on Albania (2020), some progress in judicial reforms are acknowledged, particularly with the legislative changes initiated in 2016. However, it pointed out that these reforms had not been effectively implemented. The report underscored that despite substantial changes in the legal framework, there remained significant challenges in ensuring the independence of the judiciary and the proper functioning of legal norms. The influence of political power on the judicial system persisted, which obstructed the full application of democratic norms and hindered Albania's ability to build a functional legal system. The issue of legal norm justification was evident in this context, as reforms were often seen as superficial and not fully integrated into the country's legal practices.

The European Commission Report on Albania (2021) continued to highlight persistent challenges related to the implementation of legal reforms and the fight against corruption. Despite the establishment of new anti-corruption bodies and the adoption of key legislative measures, such as Law of Albania No. 06/l-011 "On Prevention of Conflict of Interest in Discharge of a Public Function" (2018) and Law of Albania No. 115/2016 "On the Justice System Oversight Bodies" (2016), the report pointed out inefficiencies in their application. This inefficiency was attributed to the lack of sufficient resources, political interference, and institutional resistance to change. The persistent corruption, particularly in the judiciary, remained a substantial barrier to the effective implementation of legal norms, leaving them poorly justified and inadequately enforced. Furthermore, amendments introduced by Law of Albania No. 76/2016 (2016), which modified Constitution of the Republic of Albania (1998), aimed at reinforcing judicial independence, faced difficulties in full enforcement due to structural weaknesses and resistance within state institutions. The Family Code of Albania (2003) and Law of Albania No. 9877 "On the Organization of the Judicial Power" (2008), which regulate legal procedures and the structure of the judiciary, also required further harmonization with EU standards to ensure greater transparency and accountability. Albania's ongoing difficulty in justifying legal changes in this context stemmed from a deep-rooted political culture that had not fully embraced democratic principles, further complicating the process of law enforcement and the integration of legal norms into practical governance.

In the European Commission Report on Albania (2022), the progress made by Albania in harmonizing its legal

system with the European Union's *acquis communautaire* is acknowledged. However, it highlighted significant challenges in the full implementation of these norms. The report focused on the need for Albania to complete its judicial reform, particularly the vetting process for judges and prosecutors, which had been delayed. This delay resulted in a shortage of qualified legal professionals and contributed to the persistence of systemic issues within the judicial system. Furthermore, the report pointed out that the lack of judicial independence remained a key issue, which affected the justification of legal reforms. The difficulties in applying legal norms in practice were not just a matter of legislative adoption but were deeply rooted in the challenges of transforming a legal culture that had been shaped by authoritarianism.

In European Commission Report on Albania (2023), it is noted Albania's improved regional cooperation and relations with its neighbors. However, the challenges related to legal reform persisted. The Commission stressed the need for further strengthening the rule of law, particularly in the context of human rights and the protection of vulnerable groups. Legal norm justification continued to be a challenge, as the country struggled to fully align its legal practices with European standards. The issue of legal norm integration was particularly problematic, as Albania's legal framework often clashed with traditional practices and customary law, which had not been sufficiently addressed in previous reforms. The Commission emphasized the need for a comprehensive approach to legal reform that not only focused on legislative changes but also on cultural and institutional shifts.

The European Commission Report on Albania (2024), which came after the initiation of EU accession talks, provided a comprehensive overview of the progress Albania had made. While it acknowledged the adoption of essential legislation, it also pointed out that the implementation of legal reforms remained slow and inconsistent. The Commission emphasized the need for Albania to overcome the persistent issues of political interference and corruption, which were significant barriers to the full justification of legal norms. These issues reflected the challenges faced by the country in transitioning from a totalitarian past to a democratic system, where legal norms had to be justified not only by legislation but also by societal acceptance and institutional capacity. The report indicated that while Albania had made strides in aligning its laws with EU standards, the real test lay in ensuring that these norms were fully integrated into daily practice, a process that continued to be hindered by the lack of judicial independence and widespread corruption.

Overall, the European Commission Report on Albania (2020-2024) reveal that Albania has made significant strides in adopting new legal norms and aligning its legal system with European standards. However, the challenges in justifying and implementing these norms persist due to the legacy of authoritarianism, political interference, corruption, and institutional resistance to change. These issues are at the core of Albania's democratic transformation, as the country works to overcome the difficulties of integrating traditional legal practices with modern democratic norms. The reports underscore that for Albania to successfully complete its European integration process, it must address these systemic challenges, ensuring that legal norms are not only adopted but also fully justified, implemented, and integrated into the fabric of Albanian society.

In the context of the development of the legal system, special attention is paid to the independence of the judiciary, the effectiveness of justice, the fight against corruption and organised crime, and the protection of fundamental rights and freedoms of citizens. The European Union requires candidate countries to implement deep reforms aimed at ensuring that these areas meet European standards, which is a prerequisite for joining the Union (Kostiushko, 2024). Albania has made substantial progress in this direction, actively working to harmonise its national legislation with EU law. An important step was the signing of the Stabilization and Association Agreement No. 87 between the European Communities and their Member States, and the Republic of Albania (2006), which became the legal basis for relations between Albania and the EU and obliged the country to adapt its legislation to European norms. Within the framework of the agreement, Albania has made comprehensive commitments to reform the judiciary, intensify the fight against corruption, and strengthen the rule of law, including the introduction of specific monitoring and reporting mechanisms.

A particularly important step in the reform process was the adoption of amendments to the Constitution of the Republic of Albania (2016), which were aimed at strengthening the independence of the judiciary and introducing new mechanisms for managing the justice system. As a result of these changes, such important institutions as the Supreme Judicial Council (Këshilli i Lartë Gjyqësor) and the Supreme Prosecutorial Council (Këshilli i Lartë I Prokurorisë) were created, responsible for the appointment, evaluation, and disciplinary supervision of judges and prosecutors, under Law No. 115/2016 "On the Justice System Oversight Bodies" (2016). These bodies were given broad powers to ensure the transparency and effectiveness of the judicial system, including the right to conduct regular assessments of the work of judges and prosecutors, consider complaints about their actions, and decide on their professional responsibility. In addition, an innovative process of re-evaluation of judges and prosecutors (vetting) was introduced, conducted by The Independent Qualification Committee (Komisioni i Pavarur i Kualifikimit), established on the basis of Constitutional Law No. 76/2016 "On Some Additions and Amendments to Law of Albania No. 8417 "Constitution of the Republic of Albania", As Amended" (2016). This process involves a comprehensive review of the professional competence, moral integrity, and legality of the origin of the property of judges and prosecutors to clear the judicial system of corruption and increase citizens' confidence in justice.

In the context of Albania's European integration aspirations, improving the effectiveness of the legal system and overcoming existing obstacles requires focusing on priority reform vectors. The defining task is to strengthen the capacity of judicial institutions through proper financial support, updating the technical infrastructure, and improving the recruitment mechanisms for courts and the prosecutor's office. This includes the large-scale introduction of modern information technologies to optimise judicial processes, and the development of electronic document management and case management systems, which can substantially increase the efficiency of judicial bodies and ensure better provision of services to citizens. Therewith, it is necessary to strengthen the fight against corruption by developing and implementing comprehensive anti-corruption programmes, establishing stricter responsibility for corruption offences,

and ensuring the real independence of anti-corruption bodies. In this context, an important step was the adoption of Law No. 06/l-011 "On Prevention of Conflict of Interest in Discharge of a Public Function" (2018), but its effectiveness largely depends on consistent implementation and systematic monitoring of compliance with established requirements.

Special attention should be paid to improving the effectiveness of law enforcement by improving case review procedures, optimising the timing of court proceedings, and ensuring strict enforcement of court decisions. Achieving these goals is possible through systematic professional development and advanced training of judges, prosecutors, and lawyers, as well as the introduction of modern mechanisms for monitoring and objectively evaluating their work. An important aspect is to ensure maximum transparency of judicial processes and increase citizens' access to information about the activities of courts, which will help to increase confidence in the judicial system and strengthen the rule of law. An equally important area is the development of legal culture and the activation of public participation in the processes of legal reform, which provides for the implementation of large-scale programmes of legal education for various segments of the population, especially young people, information campaigns on the rights and obligations of citizens, and the active involvement of civil society organisations in the process of reforming the legal system. In this context, the state can support non-governmental organisations and public initiatives aimed at raising legal awareness and forming an active civic position. Strengthening international cooperation, in particular, with the European Union and leading international organisations, is also a critical factor for success. This involves making better use of available technical and financial assistance to implement reforms, actively assessing and adapting other countries' best practices, and ensuring regular and objective monitoring of progress made. An important role in this process is played by various financial assistance agreements and support programmes, such as the Regulation of the European Commission No. 718/2007 (2007), which provides the necessary resources and expert support for reforms.

Discussion

The examination of Albania's legal transformation after the fall of the communist regime and its integration efforts within the European community reveals a wide range of challenges and achievements in the field of legal reform. An important aspect of this analysis is the interaction between traditional legal customs, such as Kanuni, and modern norms of the democratic rule of law. G. Berman and A. Fox (2023) emphasise the gradual nature of legal reform, emphasising that rapid and radical changes can destroy existing institutional foundations and lead to a loss of trust on the part of citizens. The study shows that Albania has repeatedly faced similar consequences: rapid reforms, often implemented without proper training, have caused distrust among the population, especially in remote areas where the impact of customary law remains substantial. In this context, it is evident that maintaining confidence in the legal system is possible only if there are smooth and consistent changes. B. Hajdini and G. Skara (2022) analyse the effectiveness of anti-corruption bodies established after the 2016 reform and find that such structures still do not show substantial success due to their continued political influence and limited institutional capacity. In particular, the lack of resources and qualified personnel complicates the work of judicial institutions, which is fully consistent with the findings of the study, which emphasises that even the best anti-corruption initiatives remain declarative without real support. These problems are compounded by additional challenges, in particular, the influence of local political elites, who continue to use the judicial system to their advantage.

The study focuses on the role of Kanuni customary law, which remains influential in some regions of Albania. W. Shankley *et al.* (2024) point out that the country's legal system cannot ignore the influence of traditional legal mechanisms. They argue that adapting these mechanisms to modern norms, in particular, human rights principles, can contribute to social stability. The current study supports this thesis: the activities of reconciliation commissions in the north of the country illustrate how integrating elements of Kanuni with official justice helps reduce the level of violence and improves the availability of legal protection. A. Aliu and B. Arifi (2021) add that successful implementation of these traditional approaches is possible only with the active involvement of communities since local leaders and authorities play a key role in ensuring social harmony. The study shows that only a combination of traditional and modern legal practices can ensure the effective functioning of the legal system.

In the context of European integration, K.L. Scheppele *et al.* (2021) examine the impact of EU requirements on the reform of Albania's judicial system, noting that international pressure, on the one hand, encourages change, and on the other, creates substantial challenges, especially in the field of adaptation to European standards. The analysis confirms this conclusion, showing that reforms in Albania are often implemented under pressure from European organisations but remain incomplete without considering local legal and cultural characteristics. A. Anastasi (2021) explores the role of the international community in democratisation, emphasising that effective assistance should consider not only external standards but also the country's internal legal culture. The study also shows that external influence can be a double-edged sword: although it promotes progress, without proper cultural adaptation, it risks remaining superficial and ineffective.

An important component of anti-corruption reforms is a change in institutional culture (Oliinychuk *et al.*, 2023). P. Zawadzki (2020) emphasised that legislative changes alone will not ensure success without a deep restructuring of ethical standards among judges and employees of the judicial system. The analysis confirms that even after numerous legislative reforms in the fight against corruption, courts remain vulnerable to corruption influences, and these shortcomings are systemic in nature. P.M.E. Sá *et al.* (2021) focus on the recertification of judges, noting that this procedure improves professional ethics and improves the quality of Justice. The study confirms the positive impact of re-certification but also identifies the need for continuous monitoring and independent evaluation of the results of this initiative. The analysis also points to the potential of e-justice to reduce corruption and stresses the need for substantial investment in technical infrastructure and staff training. R.K. Ahmed *et al.* (2021) add that information technologies not only contribute to modernisation but also allow for transparency in judicial procedures, which is crucial for ensuring the effectiveness of the judicial system. Investments in this sector could be a significant complement and provide transparency and lay the

foundation for a number of other investments in Albania's infrastructure projects by the Netherlands, Switzerland, Canada, Italy, Turkey and Austria (Shahini & Shahini, 2024).

E. Dini (2021) examines the protection of women's rights and establishes that gender discrimination remains a serious problem, especially in matters of property and inheritance, despite the existence of progressive legislation. The study confirms these findings, noting that gender inequality has deep roots in traditional social structures that are slow to adapt to modern requirements. E. Zhllima *et al.* (2022) investigate the impact of gender norms in rural areas, emphasising that cultural biases substantially complicate the implementation of women's rights in practice. The study shows that only a comprehensive approach that includes legal education and the involvement of local leaders can make a difference. The impact of public institutions on legal reform was analysed by M.A. Nugmanovna (2022), which emphasises the importance of the participation of non-governmental organisations in ensuring transparency of reforms. The analysis shows that civil society plays a critical role in shaping the legal culture and ensuring monitoring of the judicial system. B. Bino *et al.* (2020) expand on this subject, stating that public organisations contribute to ensuring accountability of the authorities, and this should consider when implementing reforms. The analysis confirms that public institutions are becoming an important tool for supporting democratic changes in the country.

S. Shala and D. Leka (2022) emphasise the importance of legal education, noting that young people should understand their rights and obligations from an early age. The conducted study confirms that legal culture is the foundation of a democratic society and underlines the need to integrate modern educational methods into the system of training lawyers. E. Dhembo *et al.* (2019) point out the need to adapt legal education to modern challenges, which is confirmed by the identified need to train specialists who can meet European standards. M. Bakiasi (2021) explores EU technical assistance programmes, accenting the importance of adapting such initiatives to local needs. The analysis confirms that international assistance has a substantial impact on the development of the judicial system but requires close coordination with national institutions. S. Ndregjoni (2023) explores the impact of international donors on Albania's judicial system and suggests ways to improve the effectiveness of these programmes. The study shows that international cooperation is a critical factor in the reform of the judicial system, but its effectiveness depends on the extent to which these programmes take into account the specifics of local legal culture and challenges. Summarising all the results, the transformation of Albania's legal system requires an integrated approach that combines legal education, cultural adaptation, public engagement, and effective international support. Therewith, challenges remain that require further research, including integrating traditional law with modern law, strengthening institutional capacity and ensuring equal access to justice for all citizens.

Thus, the legal transformation of Albania after the fall of the communist regime is a multifaceted process that faces numerous challenges, such as the preservation of traditional legal norms, the need for cultural adaptation of European standards, corruption in the judicial system, gender inequality, and weak institutional capacity. The study confirms that the success of reforms depends on a combination of gradual legal changes with the involvement of communities, the integration of customary practices into modern justice, the use of digital technologies for transparency, and the active participation of civil society. Support from the EU and international donors is important but only if local conditions and the specific features of the legal culture are considered. Legal education, institutional change, and a systematic approach to combating corruption remain key elements, which should ensure the long-term stability and development of the rule of law.

Conclusions

In the course of the study, the historical background and features of the formation of the legal system after the fall of the communist regime were considered, the main stages of its transformation and factors that influenced the process of law-making were identified. The analysis of the specifics of the interaction between the traditional legal customs of Albanian society and the new democratic legal norms revealed key contradictions and conflicts in the process of their legitimisation. Current problems in the field of legal justification and law enforcement were described, especially in the context of European integration and bringing national legislation in line with EU standards. The results of the study showed that, despite the adoption of important legislative acts and initiatives, the effective implementation of legal norms remains problematic due to the preservation of deep-rooted traditional practices, corruption, political instability, and insufficient legal culture among the population.

The results obtained confirm the multi-level legal transformation in Albania, demonstrating that the challenges of legitimising legal norms go beyond the purely legal plane and cover the socio-cultural dimension. The value of the obtained conclusions lies in identifying the need for systematic reform of the legal field, considering historical experience, established traditions and features of public consciousness. The study showed that successful democratisation of the legal system is possible only if the contradictions between customary law and democratic norms are overcome, the institutional capacity of state bodies is strengthened, and citizens' confidence in the judicial system is increased. This is important for other post-communist countries that face similar challenges in the process of democratic transformation, as it emphasises the need to take cultural and social characteristics into account when implementing legal reforms.

A limitation of the study was the lack of access to certain statistics and the limited number of cases analysed, which could provide a more accurate picture of the situation. The difficulty of obtaining reliable information on informal practices and Customs limits the ability to fully analyse the impact of traditional law on the modern legal system. Despite these limitations, the study provides a valuable contribution to understanding the processes of legal transformation and indicates the need for further research on this subject.

Promising areas for further investigation are the formation of practical mechanisms for implementing traditional legal instruments in the modern legal space of Albania, an in-depth examination of the effectiveness of the implemented transformations and their role in the formation of legal awareness of society. Research on mechanisms for increasing public confidence in state institutions and the judicial system, as well as studying the role of civil society in the process of democratic transformation, also requires atten-

tion. Further attention of researchers should be focused on finding ways to overcome obstacles in the process of legal integration and ensure the sustainable development of the legal system in the context of globalisation and European integration.

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Conflict of interest

None.

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Труднощі обґрунтування правових норм як ознака демократичних перетворень в Албанії

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Анотація. Мета дослідження полягала у висвітленні ключових аспектів встановлення правових норм у контексті демократичних перетворень в Албанії та їх визначального впливу на еволюцію правової системи держави. У роботі за допомогою методів історичного, порівняльного та системного аналізу розглядались історичний контекст і специфіка розвитку правового поля Албанії після закінчення комуністичного періоду, було проаналізовано співвідношення традиційних правових практик албанської громади з демократичними нормами, а також визначено актуальні виклики правової легітимації та правозастосування в контексті євроінтеграційних процесів. Результати засвідчили, що, незважаючи на ухвалення суттєвих законодавчих актів та ініціатив, ефективна реалізація правових норм залишається проблематичною. Глибоко вкорінені традиційні практики, такі як звичаєве право Канун Лека Дукаджині, корупція, політична нестабільність та відсутність правової культури населення перешкоджають ефективному впровадженню демократичних норм. Дослідження визначило постійний розрив між законодавчими реформами та їх практичним застосуванням, демонструючи, що формальна юридична адаптація не завжди перетворюється на ефективне управління. Крім того, аналіз підкреслив вирішальну роль незалежності судової влади та антикорупційних заходів у забезпеченні сталості правових перетворень. Отримані дані засвідчили про те, що хоча Албанія досягла значного прогресу в узгодженні своєї правової бази з європейськими стандартами, системні проблеми продовжують перешкоджати повній інтеграції демократичних принципів у правову практику. Результати дослідження підкреслили, що складність обґрунтування правових норм в Албанії є не лише юридичною проблемою, а й соціальною та культурною. Це свідчить про необхідність комплексного підходу до реформування правової системи з урахуванням історичної спадщини, традиційних цінностей, менталітету суспільства. Результати дослідження мають значення для успішної демократизації правової системи Албанії, оскільки вони вказують на необхідність узгодження традиційних і демократичних норм, зміцнення інституційної спроможності та підвищення довіри громадян до судової системи

Ключові слова: корупція; традиції; кровна помста; судова реформа; євроінтеграція; легітимація

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Civil liability through the lens of a restraining order: Opportunities for protecting victims of domestic violence

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Abstract. The relevance of this study is driven by the need to improve the legal mechanisms for protecting victims of domestic violence in Ukraine. The aim of this research was to identify the specific features of civil law aspects of protection against domestic violence in Ukraine compared to administrative and criminal law approaches, with an emphasis on the necessity of implementing a systematic approach to safeguarding the rights of victims. A comprehensive methodology was applied in this work, encompassing comparative analysis, examination of current legislation, judicial practice, and legal application in Ukraine. The main findings of the research demonstrated that there are three primary grounds for implementing measures against perpetrators: (1) within the framework of administrative and criminal proceedings, (2) protection of victims' civil rights through civil proceedings, and (3) service-based interventions by the National Police, particularly the issuance of an urgent restraining order. Importantly, these measures are not mutually exclusive and can be applied simultaneously or in parallel. Special attention was given to procedural differences, such as evidence requirements, regulatory frameworks, and the objectives of these measures. It was emphasized that the legal mechanism of a restraining order can be applied in the absence of a legal offense, based solely on the presence of substantiated risks of violations of fundamental human rights, a characteristic more commonly associated with civil law remedies. The study highlighted the importance of civil legislation, which provides mechanisms for protecting victims' rights before they are actually violated,

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as well as the distinctions between civil, administrative, and criminal consequences of domestic violence. The research established that a restraining order in Ukraine can be considered a form of civil liability (in the broadest sense of the term) aimed at ensuring the safety of victims' rights and freedoms from domestic violence. The practical value of this work lies in creating a scientific basis for improving law enforcement practices and enhancing the protection of individuals suffering from domestic violence through the use of appropriate legal mechanisms tailored to specific situations

Keywords: domestic violence; legal protection mechanisms; civil offense; judicial practice; acts of law enforcement

Introduction

In the current Ukrainian legal framework, the issue of domestic violence is considered mainly through the lens of criminal and administrative offences, which substantially affects the possibilities of legal protection for victims. The underestimation of the civil law aspects of such a violation leads to the fact that measures to counteract and prevent domestic violence are possible only if there are open proceedings in criminal or administrative cases. This requires rethinking the legal nature of domestic violence and improving the legal mechanism for protecting victims.

K. Spearman *et al.* (2023) concluded that the orders are linked to all branches of law, as well as state statutory law and previous court decisions. J.M. Kafka *et al.* (2019), A. Groggel (2021), and J.L. Hardesty *et al.* (2024) assessed the possibility of obtaining such orders based on factors that are not directly related to jurisprudence (gender of the applicant, social status of the parties to the proceedings, details of the description of the violence (logical structure, lexical clarity, use of specific facts, and details that affect perception), etc. Particularly interesting in this regard is the study by J.M. Kafka *et al.* (2019), which analysed how judges' gender-biased jokes in restraining order cases reduce the seriousness of the problem of domestic violence, which partially contributes to the rejection of substantiated applications for a restraining order.

R. Cordier *et al.* (2019) and T. Logan (2021) demonstrated that restraining orders are more likely to be followed by those who have not previously been held legally liable. Otherwise, such orders are ineffective and should be used in conjunction with other measures of influence. A. Bejinariu *et al.* (2019) noted a substantial positive impact of restraining orders on reducing the number of cases of domestic violence. A. Barrick and M. O'Donnell (2024) pointed out that the existence of a court-ordered restraining order is suggestive evidence in jurisdictional proceedings in domestic violence cases. However, researchers noted that restraining orders are underused due to lack of awareness, complexity of the application process, obstacles in legal systems (Shah *et al.*, 2022; Khan *et al.*, 2023), and judges' and participants' perceptions of procedural and substantive justice (Groggel, 2021). In this context, researchers from the United States of America also focused on the problems of proving and obtaining the status of a "victim of domestic violence" when applying to the court for restrictive/protective orders (Redding *et al.*, 2022; Alsinai *et al.*, 2023).

Ukrainian researchers T.A. Stoyanova and L.A. Ostrovska (2021) addressed the potential civil law nature of violations that may result in a restraining order. The study showed a tendency that courts are more likely to grant a restraining order if there is evidence that the victim has already sought help from other specialised services dealing with domestic violence (especially, as confirmed by numerous court cases, law enforcement agencies), and courts issue restraining orders only when the abuser continues their violent actions or does not stop them. This position is quite reasonable, especially since out-of-court mechanisms should include not only appeals to law enforcement agencies (but also, for example, to NGOs whose statutory activities are related to helping victims of domestic violence, children's affairs agencies, social services, doctors, etc.)

Neither Ukrainian legislation nor the judicial practices of the Ukraine's Supreme Court (as of September 2024) explicitly prescribe the possibility of satisfying an application for a restraining order in case that a civil offence is potentially present. In some cases, courts do not even open proceedings, using the lack of information that the applicant is a victim of domestic violence to substantiate such a decision, or dismiss the application on the grounds that the issuance of an order would restrict the offender's civil rights. T. Tsuvina (2020) and O. Kolisnyk (2020) also noted the inconsistency of the Supreme Court in this regard.

Despite the above, certain prerequisites for understanding a restraining order as a mechanism for protecting civil rights and interests can be found in the case law of the highest courts (Supreme Court of Ukraine, 2021). Thus, the purpose of the present study was to investigate the civil law aspects of protection from domestic violence in Ukraine, with an emphasis on the need to implement a systematic approach to protecting the rights of victims and ensuring their safety through the expansion of prevention mechanisms.

Materials and methods

The study of the restraining order as a manifestation of civil liability in the context of domestic violence was conducted using a comprehensive approach. The study was based on a system of general scientific and sectoral (jurisprudential) methods and techniques. The systemic and comparative methods represented the general scientific level of the study. The systematic method was employed to summarise the scientific literature of judicial practice on the assessment of a restraining order as an integral part of the system of measures aimed at protecting the rights and freedoms of victims of domestic violence. This approach included a study of the relationship between distinct forms of legal liability and the mechanisms for their implementation. The comparative method was employed to establish the sectoral affiliation of measures against the perpetrator in the field of combating domestic violence in different countries. This method helped to identify the civil law nature of the restraining order against the perpetrator.

Sectoral (jurisprudential) methods of interpreting legal provisions and analysing judicial acts were used to identify judges' approaches to solving problematic situations of enforcement of restraining orders in jurisdictional and non-jurisdictional proceedings. The legal analysis also served to establish the content of the provisions of the current legislation of Ukraine, specifically the Civil Procedural Code of Ukraine (2004), as well as the relevant articles of Law

of Ukraine No. 2229-VIII "On Prevention and Counteraction of Domestic Violence" (2017). This helped to establish the place of a restraining order in the system of civil law measures. The analysis of court practice, specifically, the decisions of the Supreme Court regarding the application of restraining orders, helped to identify trends and specific features of application of the law in concrete cases, as well as to identify law enforcement problems arising in practice. The position of the Court expressed in the Decision of the Supreme Court in Case No. 754/11171/19 (2020) and in its more detailed version in the Decision of the Supreme Court in Case No. 509/7151/23 (2024) was particularly significant for the study. In these rulings, the Court emphasised the necessity of considering the specific features of civil and criminal forms of proceedings in domestic violence cases, their different focus and available mechanisms, and therefore procedural independence from each other and the erroneous attitude of making the possibility of issuing a restraining order dependent on the results of criminal proceedings.

The study was based on the review of scientific literature, legal sources, legislation, and documents related to domestic violence and the legal nature of liability for such violence. The search for court decisions on the application of a restraining order against the abuser was conducted based on the Unified State Register of Court Decisions (n.d.) using the keywords "restraining order". The selected restrictions included timeframe (court decisions issued since 2019 were considered) and form of court decision (rulings and decisions). No restrictions were applied to the instance, territorial jurisdiction, or form of proceedings.

Results

Domestic violence as a legal fact. With the adoption of the Law of Ukraine No. 2229-VIII "On Prevention and Counteraction of Domestic Violence" (2017), special measures against the perpetrator, which are distinct from penalties/punishments, were comprehensively introduced into Ukrainian legislation. The simultaneous introduction of analogous measures aimed at influencing perpetrators of domestic violence in civil, administrative, and criminal legislation generated numerous disputes regarding their application, including competition of legal provisions and the use of analogy.

In the scientific literature, measures that have a preventive component and/or act as a response to acts punishable by the state are conventionally classified as administrative and criminal procedure (Levchenko & Lehenka, 2018; Tsyrkunenko, 2021). This classification is also supported by the fact that, within the framework of the fight against domestic violence, the competence of the National Police to apply special measures to combat violence (risk assessment, issuance of an urgent restraining order, preventive registration of persons prone to domestic violence) was greatly expanded, and preventive registration and programmes for the perpetrator were established. Within the framework of criminal and administrative law, these measures have much in common with measures to ensure the conduct of proceedings and restrictive measures. Notably, the procedural regulations do not contain any indication of the need to simultaneously initiate jurisdictional proceedings when taking special measures to combat domestic violence (however, conclusions partially refuting this position can be found in the legal positions of the Supreme Court, as will be discussed below).

The legislator speaks of three cases of establishing the facts and risks of domestic violence and, accordingly, three grounds for applying legal measures against the offender (in the broad sense). The first and most common ground is the application of such measures within the framework of proceedings on administrative offences and prosecution for criminal offences (ensuring proceedings under the Code of Ukraine on Administrative Offences (1984) and preventive measures (detention of a person and restrictive measures under the Criminal Procedural Code of Ukraine (2012), as well as preventive measures (administrative supervision and preventive registration of district police officers and community police officers). The second reason for going to court is for victims to protect their civil rights when they were violated, unrecognised, or disputed, specifically, violations of personal non-property rights, property rights or legitimate interests. The last ground is the provision of service by authorised officials of the National Police in the form of an urgent injunction without reference to the initiation of jurisdictional proceedings.

The difference between these grounds is as follows:

1) regulatory basis: in the first and third cases, the procedure is regulated by the Code of Ukraine on Administrative Offences (1984), the Criminal Code of Ukraine (2001) and the Criminal Procedural Code of Ukraine (2012), primarily by part 6 of Art. 194 of the Criminal Procedural Code of Ukraine (2012), legislation on administrative procedure and some other sectoral sub-legislative acts, and in the second – civil action proceedings and separate proceedings for issuing a restraining order against the offender – Chapter 13 of the Civil Procedural Code of Ukraine (2004). The application of mechanisms within jurisdictional and non-jurisdictional proceedings is not mutually exclusive, they can be used simultaneously/parallel;

2) legal essence: in the first case, this refers to bringing to public responsibility for violation of those provisions that are intended, among other things, to protect public order and the normal functioning of civil society; in the second case, this refers to protecting private legal relations within the framework of civil (private) proceedings, while in the last case, this refers to protecting private legal relations by resorting to administrative and legal mechanisms;

3) the purpose of application: in the case of jurisdictional proceedings, the purpose is to punish the perpetrator and prevent further offences. For civil proceedings, the purpose is to protect the rights and interests of a particular person and to ensure the possibility of compensation for damage. Administrative police services in this context are also aimed at protecting the rights of an individual, but they also have a preventive focus: they are related to ensuring public safety and order.

4) Evidence: bringing a person to justice for an administrative or criminal offence requires establishing the existence of an offence/crime in the person's actions. Separate proceedings under the Civil Procedural Code of Ukraine (2004), as well as the application of an urgent restraining order, do not necessarily have to be connected with the subsequent prosecution of a person, but are a response to certain factors and risks. However, in the Decision of the Supreme Court in Case No. 756/3859/19 (2018), the Court fairly stated that "a restraining order is a temporary measure... until the issue of qualification of the offender's actions is resolved and a decision is made in the relevant administrative or criminal proceedings".

5) the scope of restrictions applied to a person depends on the purpose of such restrictions. When the purpose is to punish an offence, the restrictions may be more severe and have a punitive nature. However, when it comes to protecting the rights and freedoms of others, restricting the rights of the offender is legitimate and aimed at preventing the commission of new offences. In this case, the measures applied have a protective and preventive function, while their scope is determined by the concrete risks prescribed by law. Additional distinctions can also be made by, for instance, the subject of liability, procedural features, types of sanctions/compensation, specifics of restrictions imposed, etc.

Limits of civil liability. When considering the legal nature of a restraining order in greater detail, it is clear that proving the fact of domestic violence and the risk of its future occurrence in a separate proceeding under the Civil Procedural Code of Ukraine involves establishing the facts of non-recognition, violation, or contestation of a right, interest, and legitimate expectations associated with them in the actions of a person. Therewith, the case may concern both an already committed violation and the real possibility of its commission. The possibility of a court to protect a right or interest in a case where there is only a possibility of its violation was also emphasised by the Supreme Court in Decision of the Supreme Court in Case No. 501/5358/15-ц (2019).

The definition of the essence and content of civil liability is under constant scrutiny of a large cohort of researchers. There are also many approaches to the definition of this institution in the specialised literature. In one case, civil liability is presented as a form of state coercion. Such a position may create the impression of mixing private and public spheres of relations, losing the dispositive feature of civil turnover. Close to the previous point of view is the reduction of civil liability to a sanction (Shyshka & Shyshka, 2012). Civil law does not contain unambiguous provisions on "punishment" of the violator, but there are provisions on the obligation to suffer losses to return the participants to the previous, pre-violation, position (compensatory effect), as well as to compensate for the damage caused (punitive effect) (Kanzafarova, 2007). Thus, it depends entirely on how one interprets the term "sanction". The next point of view is related to the interpretation of civil liability as an accessory, additional obligation that arises in case of non-recognition, violation, or challenge of subjective rights and interests both within the framework of a contract and a tort (Zozuliak & Paruta, 2021). Factually, this refers to the identification of liability with security legal relations. Some researchers have attempted to distinguish between them by a) by including in the concept of liability only those cases when the offender is deprived of what was lawfully in their possession, regardless of the offence committed (Karnaukh, 2012), b) by presenting liability as "punishment of the offender in the form of imposing an additional obligation on them, or deprivation of rights, legal relations, which ultimately (directly or indirectly) leads to a decrease in their property status" (Slipchenko, 2019) or without it (Shyshka & Shyshka, 2012); c) by excluding from the concept of civil liability cases of voluntary compensation for damage (Shyshka & Shyshka, 2012; Nadion, 2019; Zozuliak & Paruta, 2021).

To summarise, one can agree with the position of those researchers who state that civil liability is expressed through an accessory obligation that arises in case of a violation or non-recognition of subjective rights and interests, and which aims to restore the violated right and compensate for the damage caused. This obligation may include the enforcement of obligations by the state based on the victim's request, the imposition of penalties and compensation for damages aimed at restoring the parties' original position, and the protection of a violated, unrecognised, or disputed right or interest.

As a general rule, civil liability arises if a person's actions constitute a civil offence. This is reflected not only in the scientific literature but also in the judicial practice of the highest courts. According to the Supreme Court, the basis for civil liability for property or non-pecuniary damage is the presence of a civil offence in the actions of a person, the elements of which, considering the provisions of Chapter 82 of the Civil Code of Ukraine (2003), are the damage caused, unlawful behaviour, and the causal link between them (Decision of the Supreme Court in Case No. 404/5512/15-ц, 2020; Decision of the Supreme Court in Case No. 372/165/18, 2020).

The general grounds for liability for property and non-property damage are set out in Articles 1166 and 1167 of the Civil Code of Ukraine (2003). Pursuant to the provisions of these articles, property damage caused by unlawful decisions, actions, or inaction that violate personal non-property rights or property interests of an individual or legal entity is subject to full compensation by the person who caused it. At the same time, such a person is exempt from the obligation to compensate if they prove that the damage was not caused by their fault. As a rule, moral damages are subject to compensation provided that the person who caused them is guilty. An analysis of Articles 11 and 1167 of the Civil Code of Ukraine (2003) leads to the conclusion that the very fact of causing such damage to another person is the basis for the obligation to compensate for moral damages. The obligation to compensate for non-pecuniary damage arises if the following mandatory conditions are met: a) the fact of non-pecuniary damage; b) the unlawfulness of the person who caused the damage; c) the causal link between the unlawful behaviour and the damage; d) the fault of the person who caused the non-pecuniary damage (Decision of the Supreme Court in Case No. 163/1088/17-ц, 2019).

The Decision of the Supreme Court in Case No. 755/12796/20 (2022) concluded that a series of facts must be proved to compensate for damage. The first of these is the unlawfulness/illegality of a person's behaviour. Any behaviour that resulted in damage in the absence of the authority of the perpetrator to do so is considered unlawful. In civil law, a person's unlawful behaviour may be manifested in the form of an unlawful decision, as well as in unlawful actions or inaction. Unlawful behaviour is defined as behaviour that violates mandatory rules of law or contractual terms sanctioned by law, resulting in the violation of the rights of another person (Decision of the Supreme Court in Case No. 921/182/20, 2021). It should also be considered that civil law illegality arises not only from a formal violation of a certain rule: civil law operates not only with the category of law, but also with interest and legitimate expectation, which do not have a legislative definition limiting their content and scope. There are also requirements for good faith and reasonableness, compliance with risk limits, etc., which are often referred to in court proceedings arising from contractual obligations (Decision of the Supreme Court in Case No. 753/2965/20, 2021).

The second fact is the existence of damage. Property damage means losses incurred by a person as a result of damage or destruction of their property, as well as loss of income that they could have received in the absence of such damage. The existence of non-pecuniary damage is proved by substantiating the moral suffering and the reasons for which the person suffered it (Decision of the Supreme Court in Case No. 738/387/19, 2021). According to the Resolution of the Supreme Court of Ukraine No. 4 (1995), non-pecuniary damage is defined as non-pecuniary losses arising from moral or physical suffering or other negative phenomena caused by the unlawful acts or inaction of others. This damage can take many forms, including humiliation of a person's honour, dignity, prestige, or business reputation, moral distress related to health damage, and violation of property rights, including intellectual property rights. Furthermore, non-pecuniary damage may be caused by violations of consumer or other civil rights, unlawful detention under investigation or trial, with the corresponding negative consequences. Particularly noteworthy is the impact of non-pecuniary damage on the disruption of a person's normal life ties, specifically due to the inability to continue an active social life or due to disruption of social relations with others. Other manifestations of non-pecuniary damage may include additional negative consequences that deprive a person of the opportunity to exercise their rights or cause substantial discomfort. Thus, non-pecuniary damage covers a wide range of non-property losses that have considerably affect the personal rights, freedoms, and interests of individuals and legal entities, requiring an effective legal mechanism for its compensation (Decision of the Supreme Court in Case No. 823/2108/18, 2023).

The causal link between unlawful behaviour and damage is an integral part of civil liability and must also be proved. This means that the damage must be a direct consequence of the actions or inaction of the responsible person. Fault is also usually a prerequisite, except as provided by law (Decision of the Supreme Court in Case No. 755/12796/20, 2022). Non-pecuniary damage is reimbursed by the person who caused it, if they are at fault. As stated in the Decision of the Supreme Court in Case No. 130/904/16-ц (2019), "civil liability is the imposition on the offender of unfavourable legal consequences based on the law, which consist in depriving them of certain rights or replacing the non-performance of an obligation with a new one, or adding a new additional obligation to the non-performance of an obligation" (for further explanation, see the Decision of the Supreme Court in Case No. 130/904/16-ц (2019)). Considering the construction of the above definition, civil liability can also be considered as a full-fledged obligation that is performed/changed/terminated considering the relationship in which it arose (hereinafter also referred to as an accessory obligation). Notably, an offender means a person who violates, fails to recognise, or disputes the right or interest of another person(s).

Civil liability, considering the private law nature of civil relations, is conventionally associated with the victim filing a lawsuit in court. The purpose of such an appeal is not to punish the offender, but to protect the victim's subjective civil right or interest, and to compensate for losses and damage. Under this interpretation of civil liability, its content may be extended beyond the scope of the lawsuit. Recognition of a person as incapacitated, restriction of legal capacity, involuntary hospitalisation in a psychiatric hospital for treatment, establishment of paternity, and some other cases – those of separate proceedings that are based on imposing an obligation on a person to suffer restrictions due to potential evasion of their duties, non-recognition, or contestation of the rights of third parties or creation of obstacles to the exercise of their rights.

For instance, a person's failure to acknowledge their parentage on a voluntary basis results in a violation of the child's right to proper parental upbringing/support. The absence of a court decision declaring a person incapacitated and appointing a guardian for a person suffering from a chronic, persistent mental disorder, and unable to understand the significance of their actions and/or control them makes it impossible to protect the rights of other persons, such as those who are dependent on such a person or suffered as a result of their actions (this refers to cases where jurisdictional proceedings are closed due to the person's insanity).

Establishing legal facts, such as parentage, in court is not a conventional manifestation of civil liability but can be considered as part of it in a broader context. The main difference is that civil liability is usually related to the consequences of wrongdoing, while the establishment of legal facts is aimed at recognising or establishing a certain legal status or state of affairs. The authors of the present study believe that the establishment of such a legal fact serves to protect the rights of the child, while imposing undesirable legal consequences on the parent.

The establishment of legal facts in some cases can be considered as part of a broader legal context that includes civil liability but is not a manifestation of liability in its classical sense. Particular attention should be paid to the provisions of Article 1163 of the Civil Code of Ukraine (2003), which entitles an individual whose life, health, or property is in danger, as well as a legal entity whose property is in danger, to demand that the person creating the danger remove it. This obligation is of a preventive nature and is aimed at performing a preventive function, the main purpose of which is to prevent harm. The application of this provision provides an effective legal mechanism for protecting the life, health, and property interests of individuals, as well as the property interests of legal entities, even before the factual occurrence of harm.

According to this provision, a person who created a threat to the life, health, or property of another person is obliged to eliminate this threat. The injured party is entitled to demand that the perpetrator cease the actions that led to the danger (Decision of the Supreme Court in Case No. 130/904/16-ц, 2019; Decision of the Supreme Court in Case No. 640/11739/15-ц, 2020). Pursuant to Article 1165 of the Civil Code of Ukraine (2003), damage caused by failure to eliminate a threat to life, health, or property of an individual or legal entity is subject to compensation following the provisions of this Code. This Article establishes a special type of liability arising from the creation of a threat – the liability to compensate for damage caused by the failure to eliminate the threat. This type of liability implies that the person guilty of creating the threat and failing to avert it will bear the negative property consequences of their behaviour.

At the same time, this mechanism is accompanied by condemnation of the offender, which emphasises the tort nature of actions and is aimed at protecting the rights and legitimate interests of the injured party. Compensation in this case performs both a compensatory and a preventive function, encouraging compliance with legal provisions and

preventing analogous violations in the future. The above also suggests that civil law protection applies not only to cases where damage has been caused, but also when there is a risk of damage.

Restraining order as a manifestation of civil liability. Pursuant to Part 1 of Article 293 of the Civil Procedural Code of Ukraine (2004), special proceedings are a type of non-action civil proceedings aimed at considering civil cases related to the establishment of the presence or absence of legal facts that are significant for the protection of the rights, freedoms, and interests of a person, as well as for creating conditions for the exercise of their personal non-property or property rights. These proceedings also confirm the existence or absence of indisputable rights that do not require a dispute between the parties. This type of proceedings provides an effective legal tool for resolving issues that are relevant to the legal status of individuals or legal entities without the need for adversarial proceedings.

The foregoing suggests that the establishment of the fact (or risk substantiated by the facts) of domestic violence is not intended to bring the perpetrator to justice, but to ensure that the victim can properly exercise their rights and freedoms guaranteed by law. The legal nature of a restraining order requires establishing the fact or fact-based risk of domestic violence and/or possible risks of its recurrence, which includes identifying the fact of violation, non-recognition, or contestation of civil rights and interests.

According to the Law of Ukraine No. 2229-VIII (2017), the issuance of a restraining order is one of the measures to protect the rights of victims of domestic violence. When deciding on the application of such a measure, the court is obliged to establish the facts of domestic violence in certain forms and assess the risk of its recurrence in the future (Decision of the Supreme Court in Case No. 509/7151/23, 2024). Thus, to establish a restraining order (based on a literal interpretation of the law), it is not necessary to prove the existence of an administrative offence, or a crime related to domestic violence.

In the Decision of the Supreme Court in Case No. 754/11171/19 (2020), the Court noted that the mere fact that a person has not been brought to legal responsibility cannot serve as a ground for refusing to apply temporary restrictions if there is other objective evidence to support the applicant's arguments. In another ruling, the Supreme Court emphasised that a temporary restriction on the offender's property rights aimed at ensuring the safety of the victim by issuing a restraining order following the provisions of Law of Ukraine No. 2229-VIII (2017) is a legitimate measure of interference with the rights and freedoms of a person. When deciding on the application of such a measure, the court must consider the established circumstances of the case, assess the danger factors (risks) of domestic violence, as well as the proportionality of restrictions on the rights and freedoms of a person. Therewith, it should be noted that the application of such measures is substantiated in connection with the unlawful behaviour of the person concerned, which poses a threat to the injured party (Decision of the Supreme Court in Case No. 509/7151/23, 2024).

However, a civil tort (in the broadest sense) has a special legal meaning compared to administrative and criminal torts, and therefore "domestic violence" as a violation of a subjective civil right or interest established in a separate proceeding does not constitute evidence of a crime or administrative offence. For example, restrictions on access to housing may be the basis for issuing a restraining order but will not be relevant for bringing a person to justice, as there may be no objective party to establish the possibility of physical or psychological harm. This follows from the analysis of the definition "domestic violence" in Article 1 of the Law of Ukraine No. 2229-VIII (2017) and Article 173-2 of the Code of Ukraine on Administrative Offences (1984). Comparing their content, it follows that a condition for bringing to administrative liability for this offence is the factual or potential infliction of damage. The absence of such damage does not mean that domestic violence was not committed but excludes the possibility of prosecution under the legislation on administrative offences. The above leads to the definition of the legal essence of a restraining order.

Legislation in the area of combating domestic violence defines four forms of domestic violence. The consequence of committing any of the types of violence mentioned by law is the possible occurrence of both property and non-property damage. Depending on the goals that the victim wants to achieve, they may (considering exclusively civil law mechanisms) use both lawsuits and separate proceedings. For instance, economic violence in the form of obstacles to the use of housing is a violation of property rights to housing. This situation can be resolved either by filing a negative claim to remove obstacles to the use of housing, or through separate proceedings, proving that these restrictions on the exercise of the right to housing are violence in themselves (Decision of the Supreme Court in Case No. 607/15692/17, 2019). In case of physical harm, the victim may also file a claim for reimbursement of the cost of treatment. Humiliation of honour and dignity is a ground for compensation for non-pecuniary damage, etc. The choice of remedy depends on several factors, among which the position of the victim is central. However, it is vital to consider the specifics of the subject matter of proof and the legal consequences of the chosen legal procedures.

Thus, it was found that a) civil legislation prescribes legal mechanisms for both protection of a violated right or interest and elimination of real threats of such violation; b) protection of a violated right within the framework of legal relations to combat domestic violence is possible both in separate and in action proceedings c) the fact of non-recognition, contestation, or violation of a subjective civil right or the factual possibility of such a violation must be proved within the framework of the claim proceedings, while the fact (risk substantiated by facts) of committing a concrete type of violence and/or the existence of risks of its further commission must be proved within the framework of the special proceedings; d) the fact of violation may be proved without initiating jurisdictional proceedings.

A significant conclusion in this part is that civil law mechanisms make provision for ways to protect the rights of the creditor/victim in case that the factual or potential existence of a civil offence (risk of harm) in the actions of the debtor/offender is established. Proving the fact of domestic violence is inherently close to a lawsuit in terms of establishing the existence of a civil offence or a risk of its commission substantiated by the facts.

When considering whether there are grounds for issuing a restraining order, courts must establish what forms of domestic violence were applied to the applicant and assess the risks of possible continuation of such actions in the fu-

ture in any of their manifestations. According to Part 3 of Article 12 and Part 1 of Article 81 of the Civil Procedural Code of Ukraine (2004), each party is obliged to prove the circumstances relevant to the case and to which it refers as the basis for its claims or objections, unless otherwise prescribed by this Code. The court evaluates the evidence based on its internal conviction, which is formed by a comprehensive, complete, objective, and direct examination of all available evidence in the case. This approach to the evaluation of evidence is prescribed in Part 1 of Article 89 of the Civil Procedural Code of Ukraine (2004) and is aimed at ensuring the fairness and validity of a court decision (Decision of the Supreme Court in Case No. 607/14637/22, 2023).

Pursuant to Article 294 of the Civil Procedural Code of Ukraine (2004), which regulates the procedure for consideration of cases in individual proceedings, the court is obliged to ensure comprehensive, complete, and objective clarification of the circumstances of the case. To accomplish this goal, the court is entitled to request the necessary evidence on its initiative, which is an essential feature of this type of proceeding. Cases of special proceedings are considered in compliance with the general procedural rules set out in the Civil Procedural Code of Ukraine (2004), except for provisions relating to the principle of adversarial proceedings and the determination of the scope of the trial. This approach is aimed at ensuring effective judicial protection of the rights and legitimate interests of the parties to the case, especially in situations where adversarial proceedings are inappropriate or impossible.

Thus, according to this provision, the legislator clearly states that the provisions on adversarial proceedings and the limits of the trial do not apply in cases of special proceedings. The adversarial principle may be partially implemented in the context of special proceedings, but its effect is limited, specifically, by the rights of the applicant. The applicant is entitled to submit evidence, take part in its examination, substantiate their claims before the court and other procedural rights. The analysis of the procedural rules governing the consideration and resolution of cases in special proceedings leads to the conclusion that applicants and interested parties are not deprived of the opportunity to provide evidence to substantiate their position. Furthermore, unlike in the action proceedings, in the cases of special proceedings (e.g., No. 692/1033/23, (2024), No. 750/2548/23 (2024), No. 751/3383/23 (2024), No. 751/9455/23 (2024)), the court is entitled to request the necessary evidence on its own initiative. As can be illustrated by the Decision of the Zaporizhzhia Court of Appeal in Case No. 332/6275/23 (2024), Decision of the Chernivtsi Court of Appeal in Case No. 718/849/24 (2024), Decision of the Lviv Court of Appeal in Case No. 450/704/23 (2024), and other cases, this provision not only expands the possibilities for collecting evidence but also strengthens the role of the court in the process, ensuring a comprehensive and objective clarification of the circumstances of the case.

Discussion

According to T. Çitak (2012) and A. Deixler-Hübner *et al.* (2018), in Austria, restraining orders are issued by the court to protect the victim of violence, especially in cases where the police have previously evicted the perpetrator from the home. Therewith, such a measure is governed by civil law provisions. In Germany, a restraining order is also one of the four main civil law instruments that can be used to protect the rights of the victim (Weitzmann, 2014). C. Agnew-Brune *et al.* (2015) also pointed out that in the United States of America, researchers held the position that restraining orders were linked to all branches of law, as well as state statutory law and previous court decisions.

M.V. Sirotkina (2023), considering the restraining order through the Convention on Preventing and Combating Violence against Women and Domestic Violence (2011) as reflected in the Supreme Court's judicial practices, pointed out that "the court is entitled to issue a restraining order regardless of the outcome of civil, administrative, or criminal proceedings". This highlights the self-sufficiency of the legal mechanism for obtaining a restraining order in civil proceedings, its independence from the results of other, especially jurisdictional, proceedings. The understanding of the essence of a restraining order is further enhanced by the fact that, according to the researcher, such an order is "aimed at preventing the commission of violence, ensuring the primary safety of persons until the issue of qualification of the offender's actions and making a decision in relation to them in the relevant administrative, civil, or criminal proceedings is resolved". The foregoing suggests that obtaining an order is one of the initial, non-independent stages of more complex legal mechanisms. However, this creates the need for a correct interpretation of the concept of violence, so that it can be further assessed in civil, administrative (administrative offence proceedings), or criminal proceedings. Since, as a general rule, these proceedings are related to the establishment of civil/administrative/criminal offences in the actions of a person, it appears that within the framework of a separate proceeding, the potential existence of such offences should be established (close in understanding to the way law enforcement agencies, when drafting a report on an administrative offence, provide preliminary qualification of a person's actions). M.V. Sirotkina (2023) did not elaborate on this issue.

L. Hrytsenko (2000), in support of the hypothesis presented in the current study, addressed the shortcomings in understanding the legal nature of measures to combat domestic violence, which are established within the framework of separate proceedings under the Civil Procedural Code of Ukraine (2004). This refers to the need for victims to submit to the court the evidence establishing the fact of violence by other authorised bodies within the framework of administrative or criminal prosecution (prejudicial value).

I.V. Hlovyuk (2022a; 2022b) also emphasised the differences in the mechanisms for applying restrictive measures within the framework of criminal prosecution for crimes related to domestic violence and separate proceedings under the Civil Procedural Code of Ukraine No. 1618-IV (2004). The researcher raised the issue of the need for a clear understanding of the differences between establishing the corpus delicti of a crime and the existence of grounds for applying a restraining order. However, apart from referring to the specific features of civil procedural proof, the researcher did not elaborate on them in detail. However, this is conditioned by the specific features of the researcher's publication and does not substantially affect the value of the conclusions and generalisations made.

L. Andriievska (2022), by analysing judicial practice, concluded that it is possible to obtain a restraining order without first applying to law enforcement agencies

(however, the literature also expresses opposing positions (Turlova, 2018). The researcher cited excerpts from judicial practices wherein civil offences were the basis for issuing an injunction, for instance, restricting access to common property (although the researcher did not define these violations as civil offences). In this regard, L. Andriievska (2023) identified the lack of detail on what circumstances and facts may suggest domestic violence and be sufficient evidence to apply an injunction as a drawback of the Civil Procedural Code of Ukraine (2004). Notably, I.V. Hlovyuk (2022a) pointed out in this regard that, considering the impossibility of clearly defining the boundaries of all manifestations of domestic violence, the identification of a concrete list of sources of evidence "appears unrealistic". Therewith, the researcher identified a fairly extensive list of sources of evidence that developed in the practice of Ukrainian courts. Notably, much of this evidence is not related to the outcomes of jurisdictional proceedings. The researchers' position regarding the absence of the necessary links between the application for a restraining order and criminal or administrative liability was also supported by N.O. Korotka (2020) and A. Yashchenko and A. Shynkarchuk (2021). These reearchers' positions are justified: on the one hand, the absence of an approximate list of the necessary evidence to be submitted with the application for a restraining order complicates the court proceedings and often leads to the dismissal of the application; on the other hand, the availability of such a list, even an exhaustive one, will limit the judicial discretion, which will also have negative consequences for the applicants. A more reasonable solution to the current situation might be to focus on the specifics of individual proceedings, namely the provision of the Civil Procedural Code of Ukraine (2004) that the provisions on adversarial proceedings and the limits of court proceedings do not apply to the consideration of cases. In special proceedings, the legislator granted the court the opportunity to request the necessary evidence on its initiative, subject to the provisions of Part 2 of Article 350 of the Civil Procedural Code of Ukraine (2004). Emphasis on these provisions when applying for a restraining order will help to ensure the completeness of the trial.

Conclusions

The study investigated the specific features of the civil law mechanism for protection of victims of domestic violence in Ukraine. The subject of the study was the civil law aspects of restraining orders in the context of administrative and criminal procedures, as well as law enforcement practice related to the protection of victims' rights. To fulfil this purpose, a comprehensive approach was employed, which included an analysis of current legislation, court practice, and law enforcement, as well as comparative analysis methods that helped to identify the specific features of various legal procedures related to domestic violence.

The key findings of the study included the identification of three principal grounds for taking action against perpetrators: 1) within administrative and criminal proceedings, 2) protection of civil rights of victims through civil proceedings, and 3) services of the National Police, including urgent restraining orders. It was found that these grounds can be used simultaneously, emphasising the significance of a comprehensive approach to addressing the problem of domestic violence. It is vital that these grounds are not mutually exclusive and can be used simultaneously or in parallel, which enables a comprehensive approach to victim protection.

Attention was focused on the procedural differences between these approaches, specifically regarding evidence collection, regulatory framework, and the purpose of the measures. Within the framework of administrative proceedings, the emphasis is placed on rapid response and urgent measures in connection with the establishment of the potential existence of an administrative or criminal offence, while in civil proceedings, it is crucial to prove the facts of a factual violation of the victim's (civil) rights or the existence of a reasonable risk of such a violation. The legal mechanism of a restraining order can be applied without the presence of an offence but only based on a reasonable risk of violation of fundamental human rights. This is particularly true for civil remedies, which allow for proactive measures to prevent possible violations before they occur. Furthermore, the study found substantial differences between civil, administrative, and criminal consequences of domestic violence, which may affect the choice of remedy for victims. The key findings were that a restraining order in Ukraine can be considered as a form of civil liability (in the broadest sense of the term) aimed at protecting the rights and freedoms of victims of domestic violence. This approach contributes to the development of a more flexible and adaptive protection system that meets the needs of victims and the specifics of the Ukrainian context.

Prospects for further research include a deeper study of the effectiveness of various legal mechanisms of protection, as well as the development of recommendations for improving law enforcement practice to ensure a comprehensive and systematic approach to protecting the rights of victims of domestic violence.

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None.

Conflict of interest

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Цивільно-правова відповідальність крізь призму обмежувального припису: можливості для захисту потерпілих від домашнього насильства

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Анотація. Актуальність цього дослідження зумовлена необхідністю вдосконалення правового механізму захисту потерпілих від домашнього насильства в Україні. Метою даного дослідження було встановлення особливостей цивільно-правових аспектів захисту від домашнього насильства в Україні у порівнянні з адміністративними та кримінально-правовими з акцентом на необхідність впровадження системного підходу до захисту прав потерпілих. У процесі роботи було використано комплексний підхід, який включав порівняльний аналіз, аналіз чинного законодавства, судової практики та правозастосування в Україні. Основні результати дослідження продемонстрували, що існує три основні підстави для застосування заходів щодо кривдника: 1) у межах адміністративних і кримінальних проваджень, 2) захист цивільних прав потерпілих через цивільний процес, та 3) сервісні послуги Національної поліції, зокрема терміновий заборонний припис. Важливим є те, що ці підстави не є взаємовиключними й можуть використовуватися одночасно або паралельно. Особливу увагу приділено процедурним відмінностям, таким як докази, нормативна база та цілі застосування заходів. Підкреслено, що правовий механізм обмежувального припису може застосовуватися без наявності складу правопорушення, а лише на підставі наявності обґрунтованих ризиків порушення основних прав людини (що характерно більшою мірою для цивільно-правових способів захисту). Наголошено на важливості цивільного законодавства, яке передбачає механізми для захисту прав потерпілих до моменту їх реального порушення, а також на відмінностях між цивільно-правовими, адміністративними та кримінальними наслідками домашнього насильства. Встановлено, що обмежувальний припис в Україні може розглядатися як форма цивільно-правової відповідальності (у найширшому розумінні цього поняття), яка має на меті убезпечення прав і свобод потерпілих від домашнього насильства. Практична цінність роботи полягає у створенні наукової бази для вдосконалення правозастосовної практики та поліпшенні захисту прав осіб, які страждають від домашнього насильства, через використання адекватних правових механізмів в залежності від конкретної ситуації

Ключові слова: домашнє насильство; юридичні механізми захисту; цивільне правопорушення; судова практика; акти правозастосування

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The concept of digital human rights: The search for new justification approaches from a comparative perspective

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Abstract. The relevance of the study lied in the need to adapt the legal framework to the challenges of the digital era by defining the principles of responsible digital development and ensuring equal access to digital opportunities. The purpose of the article was a compare of the conceptions and classification of digital human rights, in particular, to determine the criteria for their classification, to analyse the right to internet access as a key digital right and to study the best practices of different countries (Canada, Estonia, Lithuania and Ukraine). The study used comparative analysis, legal analysis, documentary analysis, content analysis, descriptive method and system analysis to examine the concept and classification of digital human rights, their practical implementation and impact on the realisation of other fundamental rights. Unclear criteria for classifying digital rights as fundamental make it difficult to develop international legal norms for a secure and democratic digital future. The study emphasised the importance of internet access as a key right that facilitates the realisation of other digital rights and reduces digital inequality. An analysis of the practices of countries with developed infrastructure and legislation showed that effective digital transformation reduces access-related discrimination and restrictions on rights in the offline environment. The practical significance lies in the formulation of recommendations for improving the legal regulation of digital rights and ensuring universal access to the internet as a key tool for social equality and development

Keywords: human rights; digitalisation; digital human rights; the right to internet access

Introduction

The explosion of information and communication technologies has woven gadgets, computers, and algorithms into the fabric of daily lives. This digital revolution necessitates a deeper understanding of its impact on humanity and rights. Societies are increasingly reliant on digital tools and infrastructure. From online banking to digital services, the digital realm permeates daily interactions. Global trends point towards a future dominated by even wider use of technology, artificial intelligence (AI), and a booming digital economy.

Digitalisation goes beyond gadgets and algorithms. It's a cultural transformation that reshapes how people work, connect, and fulfil their needs. While it offers undeniable benefits, challenges loom. Automation and robotics could disrupt the labour market, leading to unemployment and income inequality. The "digital divide" may widen due to unequal access, trust, and skills. Security threats, privacy violations, social exclusion, and even ethical concerns around controlling AI are potential pitfalls (Chukaieva & Matulienė, 2023). Furthermore, advanced technology might coexist with low living standards in some regions, and the boundaries between the real and virtual worlds could blur. Finally, legal frameworks may struggle to protect rights in the digital space. To address the challenges of automation, inequality, and a widening digital divide, robust legal frameworks are essential. International and national laws must establish principles for responsible digital development, prioritising both the spread of beneficial technologies and the protection of human rights in the digital space. These trends mark a shift from the information age to a digital, and potentially post-digital, future.

A study by A. Maineri *et al.* (2021) showed that the level of digital rights protection in the area of e-privacy varies

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significantly between European countries. In countries with developed legal mechanisms, such as Germany and France, there are clear legal provisions that ensure a high level of protection of students' and teachers' personal data, including clear consent mechanisms and restrictions on the use of learning platforms by third parties. At the same time, in Lithuania, Latvia, Estonia and Ukraine, regulations on digital rights are less detailed, leading to potential risks of data leakage, non-transparent conditions for the use of information, and unequal access to a secure digital environment. The study also found that the lack of a unified approach to e-privacy creates conditions for inequality in users' awareness of their digital rights, and limits the ability to protect privacy in distance learning. This also affects the level of trust in online platforms, as countries with lower levels of regulation are more likely to have cases of unauthorised use of personal data and lack of transparent control mechanisms by educational institutions.

The purpose of the study by S. Kemp (2023) was to analyse the current state of global Internet use and assess the level of digital inequality between different regions of the world. The author emphasised the role of the Internet as a key resource for access to information, education, and vital services, as well as identifying the main barriers to equal access to digital technologies. The study was aimed at drawing the attention of the international community to the need to bridge the digital divide in order to ensure equal access to digital rights for all segments of the population. The study showed that the number of Internet users in the world has reached 5.16 billion people, which is 64.4% of the world's population. Despite the growing digitalisation, a significant part of the population, especially in less developed regions, remains without access to the Internet, which increases socio-economic inequality. The author emphasised that addressing digital inequality requires joint efforts by governments, international organisations and the private sector to remove technical, economic and social barriers to universal access to the Internet

The study by L. Pangrazio and J. Sefton-Green (2021) aims to analyse the relationship between digital rights, digital citizenship, and digital literacy. The authors found out how these concepts intersect and what differences exist between them in the educational and social context. It was found that digital rights are legal and ethical in nature, ensuring data protection and privacy, while digital literacy focuses on practical skills in using technology. Digital citizenship, in turn, is associated with the active participation of users in the digital society. The authors emphasised the need to raise citizens' awareness of their digital rights through educational initiatives and policy strategies to ensure equal access to digital resources.

The aim of the study was to analyse the concept and classification of digital human rights using a comparative approach. It highlighted the importance of defining the criteria for classifying human rights in the digital sphere, analysed the right to Internet access as a core digital human right, and examined best practices from various countries, including Canada, Estonia, Lithuania, and Ukraine.

Materials and methods

The research methodology was based on a comprehensive interdisciplinary approach that provides a comprehensive analysis of the concept and classification of digital human rights. In order to achieve this goal, a number of scientific methods were used to study both theoretical and practical aspects of this issue. Comparative analysis was used to study approaches to the regulation of digital rights in legislation of the different countries, including Canada, Estonia, Lithuania, and Ukraine. This method helped to identify commonalities and differences in legal systems and approaches to digital rights enforcement. This approach allowed to see how each of these countries integrates the right to Internet access as a key component of digital rights.

Legal analysis played a central role in the study of court precedents such as Judgment of the Court (Grand Chamber) in Joined Cases Nos. C-293/12 and C-594/12 "Digital Rights Ireland Ltd v Minister for Communications, Marine and Natural Resources and Others and Kärntner Landesregierung and Others" (2014) and Judgment of the European Court of Human Rights in Case No. 3111/10 "Ahmet Yildirim v. Turkey" (2012). This method allowed to assess the impact of court decisions on the development of the concept of digital rights, including the right to access the Internet, the right to data protection, and the right to be forgotten. Documentary analysis was used to study international and national regulations, such as the European Declaration on Digital Rights and Principles (2022), the General Data Protection Regulation (Regulation of the..., 2016), as well as relevant legal documents of individual countries, including the Telecom Regulatory Policy CRTC 2016-496 (2016) from Canada, the Public Information Act of Estonia (2000) from Estonia, Law of Republic of Lithuania No. I-1418 "On the Provision of Information to the Public" (1996) and the European Electronic Communications Code (2018). Additionally, national regulations such as Decree of the President of Ukraine No. 928/2000 "On Measures to Develop the National Component of the Global Information Network Internet and Ensure Wide Access to this Network in Ukraine" (2000) and Law of Ukraine No. 1089-IX "On Electronic Communications" (2020) were examined. This method allowed to collect, systematize, and critically evaluate legal sources to form the theoretical basis of the study.

Terminological approach was useful for identifying key concepts, classification criteria, and approaches to digital rights regulation. The analysis of literature, court decisions, and official documents allowed to identify the main trends in the field of digital rights and formulate reasonable conclusions. The descriptive method made it possible to describe in detail the legal and technological aspects of digital rights, as well as to illustrate their practical implementation using examples from different countries. This approach was important for presenting complex concepts in an accessible and understandable manner.

The systemic analysis made it possible to assess the impact of digital rights on the realisation of other fundamental human rights, such as the right to education, freedom of expression, access to information, and ensuring equality of opportunities in the digital sphere. This method allowed to consider digital rights as part of a broader legal and social system that ensures the harmonious development of society. As part of the methodological approach, the author systematised information on the classification of digital rights, and identified their fundamental and additional nature.

Results and discussion

The origins of the digital human rights concept and their classification. The understanding of human rights is not static, but rather a concept that grows alongside society and its changing needs. This adaptability reflects the inherent complexity of human experience, leading to a continuous expansion of recognised rights. Since the late 1970s, scholars have identified three main generations of human rights. The first generation focuses on core civil and political liberties, like freedom of speech and assembly. The second generation emphasised economic, social, and cultural rights, such as access to education and healthcare. The third generation encompasses collective rights, like the right to development and peace. Since the 1980s, discussions have emerged about a potential fourth generation of rights. Possible areas for these rights include safeguarding the rights of future generations, protecting genetic heritage, upholding the rights of indigenous peoples, and addressing the challenges presented by technological advancements. It's important to note that the concept of generations is not a linear progression. Each generation builds upon the previous one, with earlier rights remaining relevant even as new ones are recognised (Risse, 2021).

The digital revolution demands a revaluation of human rights. As societies become increasingly reliant on technology, the need to enshrine "digital human rights" at both international and national levels becomes critical. A clear understanding of these rights – their classification within the existing human rights framework and their specific content – is essential. The concept of "digital rights" emerged unevenly across different countries, focusing on various aspects of human life in the digital age. Recognition of these rights wasn't immediate, but a landmark Judgment of the Court (Grand Chamber) in Joined Cases Nos. C-293/12 and C-594/12 (2014) addressed privacy protection and data retention programs. This case paved the way for the General Data Protection Regulation (Regulation of the…, 2016). Several key digital rights have emerged through court judgments. The right to internet access, for instance, was acknowledged by the "Ahmet Yildirim v. Turkey" (2012). Similarly, the "right to be forgotten" was established in Judgment of the Court (Grand Chamber) in Case No. C-131/12 "Google Spain SL and Google Inc. v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González" (2014).

The explosion of digital rights, the constant evolution of technology, and its impact on existing human rights have ignited a fierce debate. Scholars are divided on how to classify these "digital rights". M.-J. Gallego-Arrufat *et al.* (2024) sees them as an extension of the Universal Declaration of Human Rights in a digital context. E. Celeste and G. de Gregorio (2023) exemplified this with the right to digital education as a component of the right to quality education in the digital age. Another school of thought emphasised the need to reinterpret existing rights and potentially create new categories specific to the digital realm. D. Murauskas (2024) argues that digitalisation alters existing rights and creates new ones, like the right to Internet access for equal information access. Some scholars delve even deeper, suggesting digital technologies like internet access could become legal foundations for a "homo digitalis" existing in the digital world.

Traditional human rights address individual freedoms (first generation), social equality (second generation), and collective action (third generation). Fourth-generation digital rights, however, emerge in response to interactions with intelligent, non-human technologies. This new reality presents distinct challenges. The digital revolution has intertwined physical and online worlds. Essential rights, like education, healthcare, and employment, increasingly depend on digital access. Without it, individuals face a significant disadvantage in exercising these very rights.

The right to a fair trial, a cornerstone of democratic societies, faces new challenges with the rise of AI in the judiciary. If AI can accurately predict court outcomes, the need for trials itself becomes questionable. Additionally, access to expensive AI-powered legal tools could create an uneven playing field, jeopardising fairness and equal access to justice. Some even propose AI judges, arguing for their potential objectivity. These advancements raise serious concerns about upholding both procedural and substantive justice in the digital age (Custers, 2022). The rapid rise of technologies like AI and gene editing promises to shape future, but it also presents a double-edged sword. These tools, built by humans with inherent biases, can become opaque and manipulative ("technology depersonalisation") (Schneier, 2020). Algorithmic bias and software bugs can lead to unfair outcomes, as seen in discriminatory pricing based on user data (Akter *et al.*, 2022). As technology becomes ever more integrated with people's lives, it must address these challenges. It needs to ensure responsible development and equitable use of technology to prevent it from becoming a force of control rather than progress.

A. Shahbaz (2018) critically examines the implications of Order of the President of the People's Republic of China No. 53 "The Cybersecurity Law" (2016) and the integration of advanced surveillance technologies within the country's governance system. The author highlights how these technologies, which prioritize state control and security, have a profound impact on individual freedoms and human rights. Author draws attention to China's strict user identification policies, content filtering, and data storage regulations, all of which significantly increase government control over digital spaces. The use of facial recognition and other surveillance tools, especially in regions like Xinjiang, has sparked international concern regarding human rights violations, with the government justifying these measures as necessary for "public order" or "national security". Researcher underscores the tension between technological advancement and human rights, particularly the risk of technological systems being used to suppress dissent, monitor citizens, and perpetuate authoritarian control.

The rapid pace of technological innovation far outstrips the development of legal frameworks, leaving human rights protections in a precarious position. Digital spaces remain largely unregulated, with no universally applied rules governing those who design, operate, and profit from these technologies (Maulenov *et al.*, 2024). Even existing standards meant to safeguard human rights online lack effective enforcement mechanisms. This lack of regulation shouldn't come at the expense of fundamental rights. As technology continues to evolve, it will inevitably reshape how individuals exercise these rights. It's critical for governments and individuals alike to reaffirm the enduring importance of human rights, regardless of the evolving methods through which they are practiced.

In recognition of the unique challenges posed by the digital age, the European Union took a significant step

towards establishing digital rights. On January 26, 2022, the EU Commission proposed a European Declaration on Digital Rights and Principles (2022). This declaration, formally adopted by summer 2022, serves as a political roadmap for the EU's approach to digital rights. The Declaration draws on existing principles enshrined in the Charter of Fundamental Rights of the European Union (2000) and bolstered by case law from the Court of Justice of the EU. It builds upon primary and secondary EU law, including key treaties and the Charter, while complementing the European Pillar of Social Rights. Importantly, the Declaration is a non-binding document, meaning it doesn't directly change existing legal rules but sets a clear direction for future policy and legal development.

European Declaration on Digital Rights and Principles (2022) doesn't define "digital human rights", but it does achieve two key things. First, it affirms the EU's commitment to a secure, sustainable digital future that prioritised people and aligns with existing EU values and rights. This legal document itself does not reveal how this principle should be implemented. At the same time, based on the well-known concept of human-centeredness, it can be assumed that the idea of human-oriented approach is to put people at the centre of all actions, processes, and decisions, especially in the field of digital technologies. Key aspects of this approach may include the following practical steps in this direction. Lawmakers should focus on developing and implementing legal norms and standards that promote human-cantered approaches in technology development. This includes requirements for privacy protection, data security, and accessibility for all users. It is important to audit and assess the impact of technology on people, especially on different social groups, to identify potential negative consequences. Supervision and control mechanisms should be established to ensure compliance with information security and ethics standards. Research and innovation should be encouraged, with a focus on technologies that meet people's needs and ensure safety and usability. Legal protection for consumers in digital technologies should be strengthened, including rights to information, refusal of automatic decisions, and protection of personal data. Transparency and openness in technology development should be required, including public disclosure of test results and human impact assessments. International exchange of best practices should also be promoted.

Developers also should strictly adhere to the principle of human-centeredness in digital technologies, taking into account the needs, abilities, and preferences of users. This includes creating intuitive interfaces, providing personalisation options, and ensuring accessibility for all users, including those with disabilities. Ethical considerations such as privacy and security of personal data should also be prioritised. Involving users in the development process can help improve the product to better meet their real needs. Second, it establishes a crucial principle: "what is illegal offline is also illegal online". This principle is already reflected in the Digital Services Act (2022), which aims to protect users by preventing the spread of illegal content and safeguarding their fundamental rights online. However, some challenges remain. Applying this principle could potentially restrict online anonymity, and enforcing it might be difficult due to issues finding and prosecuting offenders. The EU's initial efforts to fortify digital rights hold significant promise. The European Declaration on Digital Rights and Principles (2022) establishes ethical guardrails for digital development, emphasised key rights in the online world, and lays the groundwork for clear and transparent limitations on digital rights, ensuring an inclusive regulatory process. A unified approach to digital human rights can ultimately prevent conflicts arising from applying existing rights to the complexities of the digital age.

Carving out a distinct category for digital rights offers clarity, but also raises concerns. A separate protection system could be overly complex and lead to enforcement conflicts with existing human rights frameworks. Additionally, some fear it could restrict tech companies' freedom or be misused by governments for online control. Despite these challenges, researchers argue for the need to protect these "conditional digital rights" even without a formal international act. A major hurdle in the "digital rights" field is the lack of established classification criteria. This hinders effective legal regulation and a robust legal framework. The recently adopted European Declaration on Digital Rights and Principles (2022), while outlining key rights like data protection and freedom of expression, doesn't provide specific criteria for classifying digital rights. However, it does highlight "most important rights in the digital context", such as non-discrimination and access to the Internet. These fundamental rights then serve as a foundation for addressing other digital rights. For instance, the principle of non-discrimination is applied to ensure everyone has access to high-quality internet and digital literacy training. Similarly, freedom of expression extends to protecting all fundamental rights online. The Declaration also emphasised cybersecurity and individual control over data, underscoring the importance of data privacy.

B. Custers (2022) proposed rights aim to address the growing concerns over digital overload and the permanent digital footprints left by online activities. The "right to disconnect" suggests that individuals should have the right to disengage from digital communication outside of working hours, promoting work-life balance and mental well-being. The study advocates for the erasure of past digital data, enabling individuals to have more control over their digital identities. However, authors' proposals face criticism for lacking a clear justification for their classification as digital rights. While these concepts resonate with contemporary concerns about digital life, the academic and legal communities are still debating whether these ideas should be formally recognised as rights and whether they fit into existing frameworks of human rights. B. Custers' (2022) work contributes to the growing discourse on digital rights by suggesting rights that reflect the evolving nature of digital technologies, but their implementation remains uncertain due to the lack of a universally accepted legal basis.

M. Gallego-Arrufat *et al.* (2024) focused on defining digital rights as those that enable individuals to access and participate in the digital sphere. This broad definition emphasised the role of digital rights in facilitating inclusion and participation in the digital world, particularly regarding access to essential online services, information, and communication platforms. Authors argue that digital rights are fundamental for ensuring equality in a digital age, where exclusion from the internet can lead to marginalisation and a lack of opportunities. This definition aligns digital rights with traditional human rights, stressing their role

in upholding individual freedoms in the digital environment. While this perspective is widely accepted, researchers' approach also raises questions about the boundaries of digital rights and their integration into existing human rights frameworks.

There are two main approaches to defining digital rights. The first takes a narrow view, focusing on a specific set of rights crucial for using digital tools effectively. These "core digital rights" typically include: the right to internet access, the right to be forgotten (data erasure), the right to personal data protection, the right to cybersecurity (Shahbaz, 2018). The concept of digital rights is multifaceted. One approach focuses on core rights essential for using digital tools, like internet access and data privacy. The broader view acknowledges that the list can evolve with technology and societal changes. This includes fundamental rights exercised online, like free speech, and additional "supplementary" rights that enhance digital experience, like the right to digital education or to disconnect from work. Both approaches are valid. Essentially, digital rights encompass both: unique rights (those that wouldn't exist without digital technologies, like internet access) and extended rights (fundamental rights like free speech that apply equally online and require protection in the digital space) (Gallego-Arrufat *et al.*, 2024).

Ultimately, digital rights define the boundaries of acceptable online behaviour, needs and the opportunities users have to engage with technology. Digital technologies play a crucial role in meeting a wide range of human needs by providing tools for convenience, efficiency, and enhancing quality of life (Nurbatyrova *et al.*, 2024). These needs encompass communication and connectivity, education and training, work and productivity, access to information, health and care, financial services, and entertainment and leisure. Digital technologies enable easy and quick communication through emails, social media, and instant messaging, as well as facilitate education and training through e-courses, video tutorials, and online learning platforms (Murauskas, 2024). They also support work and productivity by enabling distance (online) work and providing online tools for project management and collaboration. Additionally, digital technologies offer access to a vast amount of information on various topics, satisfying the need for knowledge and self-learning. In the realm of health and care, technologies such as telemedicine, medical applications, and health trackers help monitor health and provide medical advice. Furthermore, digital technologies improve access to financial services and financial management through Internet banking, electronic payment systems, and cryptocurrencies. Lastly, they contribute to entertainment and leisure through games, streaming platforms, and digital media (Akter *et al.*, 2022). The implementation of digital human rights, in line with the human-cantered approach, is crucial for ensuring that digital technologies meet the needs and interests of every individual without infringing on their fundamental rights and freedoms. This is essential for establishing a just and inclusive digital space where everyone can thrive and reach their full potential.

The right to the Internet access as the core digital human right. In modern world digital human rights and human needs are closely linked as digital technologies play a direct role in how users meet and safeguard basic human needs in the digital realm. Overall, essential modern human needs are met through digital rights such as: the right to access technology and digital inclusion. This includes the right to access the Internet and digital technologies, which is increasingly crucial for ensuring equal opportunities in education, employment, healthcare, and other areas. This affirms the right of all individuals to utilize modern technologies and engage in the digital community; the right to privacy and protection of personal data, which asserts that individuals should have authority over their data and guarantee its security for their own protection. This is crucial for ensuring personal safety and liberty; the right to freedom from discrimination, which implies that digital technologies can be utilised to diminish discrimination or, conversely, to perpetuate it. It is crucial that technologies are developed and utilised in alignment with the principles of equality and justice, safeguarding the equal rights and opportunities of all individuals. This includes ensuring cybersecurity, protecting users from cyberattacks and promoting the ethical development of AI and automation technologies. Additionally, it is essential to uphold the right to freedom of expression and information, as digital technologies enable access to a variety of information sources and facilitate the open exchange of ideas (Golovko *et al.*, 2023). A similar approach is illustrated by the European Declaration on Digital Rights and Principles (2022), which outlines several key digital rights: the right to high quality connectivity with access to the Internet for all (including digital infrastructure), i.e., the right to internet access; protection of personal data (including the right to privacy); the right to cybersecurity; and the right to high quality digital education and training (digital skills).

M. Reglitz (2019) emphasised the internet's "unique and fundamental value" in enabling individuals to exercise their socio-economic human rights. The research underscores how essential the internet is in modern society, as it facilitates access to vital services such as education, healthcare, and employment opportunities. M. Reglitz (2019) highlights the role of the internet in bridging socio-economic disparities, particularly between the wealthy and the underprivileged. According to his study, without internet access, individuals are at a significant disadvantage in fully participating in economic, social, and political life. M. Reglitz advocates for a broader recognition of the internet as a tool for exercising human rights, underlining its importance not just as a platform for communication but as a fundamental enabler of equality and opportunity. His research calls for greater attention to the digital divide and the need for policies that ensure universal access to this critical resource.

The authors K. Karppinen and O. Puukko (2020) sought to analyse the main discourses of digital rights and explore how they influence policy in the digital environment. The study focuses on how different interpretations of digital rights are used in policy processes and Internet regulation. The study identifies four key approaches to digital rights: as freedom from interference, as a mechanism of state regulation, as a tool for democratic participation, and as a means of achieving social justice. It is found that digital rights are often subject to political manipulation, and the lack of a unified approach at the international level creates challenges for their effective implementation.

European Declaration on Digital Rights and Principles (2022), for example, promotes affordable and high-speed internet access for all EU citizens, regardless of

location or income. Notably, the EU prioritised a neutral and open internet, where content, services, and applications are not unreasonably restricted. The right to internet access has two key aspects: accessibility and affordability. Accessibility encompasses two interconnected elements: the ability to access and share information online and the physical infrastructure, like cables and towers, that enables this access. Affordability is being defined as the availability of broadband access at a price that is less than two per cent of the monthly gross national income per capita (GNIpc). Affordability remains a major barrier, particularly in low- and lower-middle-income economies where mobile broadband access is especially expensive (Volodovska, 2019; Is there a right…, 2023).

Law of the Republic of Lithuania No. I-1418 "On the Provision of Information to the Public" (1996) in the context of digital rights indicates its important role in ensuring access to public information in the digital age. The law defines the basic principles of providing information to citizens, which is important for the development of transparency and accountability of public authorities, especially in the digital environment. It guarantees the right of citizens to access information in electronic format, which is an important aspect of digital rights, in particular in the context of access to state and public data via the Internet. Due to the proliferation of technologies and online platforms, this law supports the development of e-democracy and the human right to free access to information, which is important for the realisation of digital rights such as freedom of expression and access to digital resources. The law also provides for information protection mechanisms, which adds an additional layer of privacy protection in the digital environment, given the new challenges posed by the use of modern technologies.

A secure and free internet hinges on two essential rights: access and cybersecurity. The right to cybersecurity protects users from online threats like cyberattacks, fraud, harassment, hate speech, and discrimination (Metelskyi & Kravchuk, 2023). However, these safeguards shouldn't infringe on other fundamental rights, such as privacy. Data privacy is crucial for a healthy online environment. Processing personal data must be lawful, transparent, and obtain user consent. Users have the right to understand how their data is collected, used, and shared. The rise of cloud computing and data storage makes data protection even more critical. Personal data, considered the "currency" of the 21st century, faces new risks. Aggressive tactics offering goods or services in exchange for user data threaten privacy (Palko *et al.*, 2023). To navigate this digital landscape safely, fostering digital literacy is essential. Equipping people with the knowledge and skills to use technology empowers them to interact confidently online.

The concept of internet access as a fundamental right faces varying interpretations across countries. Some view it as an independent right, while others see it as a tool enabling the exercise of existing rights. Despite this lack of consensus, the international community emphasised universal access through the concept of "universal service". Several progressive countries are leading the way by enshrining the right to internet access in their legal frameworks. These include highly developed Canada, Estonia, Lithuania and Ukraine as a country that is actively developing in this direction and introducing unique digital products and services. Canada stands out as a global leader in recognising internet access as a fundamental right for all citizens. In 2016, the Canadian Radio-television and Telecommunications Commission (CRTC) declared fixed and mobile broadband internet access as basic telecommunication services (Telecom Regulatory Policy…, 2016). This landmark decision aims to ensure affordable broadband access for Canadians in urban, rural, and remote areas. The CRTC recognised the critical role of broadband in Canadians' ability to access essential services and participate in the modern digital economy. They further emphasised the importance of ultra-high-speed internet for future economic prosperity. To achieve these goals, the CRTC established the High-Speed Internet Funding Programs (2023) and a USD 3,225 billion Universal Broadband Fund to support high-speed internet projects in underserved communities. Additionally, in 2019, the government prioritised universal internet access as the first principle in its draft digital communications framework (Innovation, Science and Economic Development Canada, 2019). While Canada enjoys relatively stable internet penetration rates across both fixed and mobile networks, there are challenges. A digital divide persists, with affordability being a particular concern for low-income populations and geographically remote areas. Mobile broadband data also remains more expensive compared to fixed-line options, according to data from the International Telecommunication Union (n.d.).

Estonia stands as a prime example of how technology can be leveraged to uphold human rights. As a pioneer in developing a state-level information system, Estonia created the comprehensive "e-Estonia" society. This innovative system empowers citizens by making the exercise of civil rights easier through online access. Notably, the Public Information Act of Estonia (2000) explicitly guarantees the right to internet access by allowing anyone to access public information online (Section 33). Many media sources even report that Estonian law recognised internet access as a fundamental human right. Another key factor is the European Electronic Communications Code (2018). The European Electronic Communications Code emphasised affordable broadband internet access as a core universal service. This obligates EU member states, including Estonia, to ensure all citizens have access to affordable broadband and voice communication services at fixed locations. Estonia's success in this area is evident. There are currently no significant infrastructure limitations on internet access. Statistics Estonia reports that a staggering 93.2% of households had an internet connection in 2023.

The EU's Digital Economy and Society Index further highlights Estonia's leadership: fixed broadband connections exceed the EU average at 83% household penetration, and mobile broadband penetration aligns with the EU average at 87% (Information and Communication…, 2023). This widespread access translates to minimal digital divide within the country. Digital Economy and Society Index also recognised Estonia for boasting one of the highest proportions of e-government users in Europe (89%) and exceptional digital public services scoring 92 out of 100. Furthermore, the International Telecommunication Union (n.d.) reports that Estonia offers relatively affordable internet access, with fixed broadband subscriptions costing 0.72% of GNIpc and 2GB of mobile data costing 0.18% of GNIpc.

Lithuania stands out within the EU for its high internet access rates. Roughly 60% of households are connected

to the global network, and widespread availability of free Wi-Fi makes it even easier to get online. Lithuania is among nine EU countries, including Croatia, Cyprus, Greece, Finland, Hungary, Iceland, Slovenia, and Spain, that require service providers to ensure universal service, which includes adequate broadband internet access at the local or national level (BEREC Report on…, 2023). This ensures citizens have reliable internet options throughout the country. The International Telecommunication Union reports that Lithuania offers internet access at a relatively affordable price. A 5 GB fixed broadband connection costs 0.84% of GNIpc, while a 2GB mobile broadband connection costs 0.20% of GNIpc.

Lithuania is one of the countries where availability and affordability measures are currently in place. Lithuania's peculiarity is that it analyses Internet coverage in residential areas. Certain groups of individuals who cannot afford the full price of Internet access receive aid. For instance, the Rules of Provision of Universal Services (Point 1) define beneficiary end-user categories as follows:

- indigent residents entitled to or receiving monetary social support under the Law of the Republic of Lithuania on Monetary Social Support for Indigent Residents;
- recipients of social services receiving social services in accordance with the Law of the Republic of Lithuania on Social Services. Also, Lithuania is one of EU countries that have imposed obligations on service providers to ensure universal service, including adequate broadband Internet Authentication Service, at a local or national level. The majority of countries have not imposed obligations or do not plan to do so.

Ukraine has also established the right to broadband communication in its legal framework. A key example is the Decree of the President of Ukraine No. 928/2000 (2000). This decree prioritised internet access for citizens and businesses, recognising its role in information access, democratic development, and economic growth. Further solidifying this right, the Law of Ukraine No. 1089-IX "On Electronic Communications" (2020) classifies broadband internet as a universal service. This obligates providers to ensure its availability throughout the country. Notably, Ukraine pioneered e-passports with equal legal weight to physical documents and launched innovative digital services like online marriage registration. Before the recent conflict, ambitious plans were in place to provide internet access to all settlements by 2022 and connect 95% of Ukrainians by 2023.

The current status of these goals is uncertain due to displacement, infrastructure damage, and occupied territories. However, legal recognition doesn't guarantee complete access. While the internet penetration rate is high (70.1%), fixed broadband access lags behind (18.62%) compared to mobile broadband (85.3%) (International Telecommunication Union, n.d.). This indicates a reliance on mobile data, with Wi-Fi access primarily limited to public spaces like libraries, schools, and shopping centres. The digital divide between urban and rural areas persists, though it's narrowing. A 2020 study by the Ministry of Digital Transformation revealed 5.75 million Ukrainians lack internet access, with 4.2 million residing in areas without fibre optic providers and 1.55 million facing cost barriers in villages (Results of the…, 2020). Additionally, the cost of fixed broadband can be high, reaching 2.25% of GNI per capita, compared to 1.36% for 2GB of mobile data.

The Internet as a basic digital human right is critically important in the modern world, as digital technologies play a key role in meeting basic human needs. This right is the basis for creating equal opportunities in education, healthcare and employment. Along with the right to access the Internet, special attention should be paid to the protection of personal data, cybersecurity, anti-discrimination and guarantees of freedom of expression. International documents, such as the European Declaration on Digital Rights and Principles (2022), emphasise the need to ensure quality Internet access for all citizens. Successful examples of the implementation of digital rights can be seen in countries such as Canada, Estonia, Lithuania and Ukraine. Also important is the issue of affordable Internet access, especially for low-income groups, and overcoming digital inequality between different socio-economic groups and regions.

Conclusions

The study showed that in order to ensure equal access to digital rights, it is important to integrate economic, social and political aspects, as well as to develop clear criteria for classifying digital rights as fundamental. Technological advances are reshaping human rights, highlighting the need for technology to remain human-centred. Imperfect technologies can lead to risks such as privacy violations, social exclusion, and discrimination, particularly for users with disabilities or limited internet access. Declarations alone are insufficient, and calls for legislative changes and mechanisms to protect personal data. Digital rights have a dual nature: some depend on technology (e.g., internet access), while others are traditional rights adapted to the digital realm (e.g., freedom of expression, privacy).

The study emphasised that it is important to distinguish between digital rights that are technology-dependent and traditional rights that are adapted to the digital environment. Technology-dependent rights, such as the right to access the Internet, are directly dependent on the technical capabilities and infrastructure that exist in specific countries. On the other hand, traditional rights, such as the right to freedom of expression or the right to privacy, take on new forms in the digital environment due to technological developments, but their essence remains unchanged. The key features that distinguish these categories of rights are their dependence on technology and their relative stability or adaptability to new conditions.

There are several main categories of digital rights. These include: the right to access the Internet, which is an important basic right, the right to privacy and protection of personal data, the right to freedom of expression in electronic communications, the right to access information, and the right to access digital resources, including digital education and training. The right to access the Internet is considered a basic digital right, as it is the basis for the realisation of other digital rights. The Internet provides an opportunity to access information, education, healthcare and other important resources, which directly affects social and economic equality. Lack of access to the Internet can lead to social exclusion and limited opportunities for personal development, making this right critical for modern society. The study provides examples of countries with developed infrastructure, such as Canada, Estonia and Lithuania, where effective methods are being implemented to ensure universal access to the Internet. One of the most effective methods is

legislative initiatives, including programs to support high-speed Internet in rural and remote areas, as well as providing access to public Internet resources such as libraries and community centres.

Promising areas for further research include the development of clear criteria for classifying digital rights as fundamental, which would allow for the creation of universal international legal norms to ensure these rights.

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Conflict of interest

None.

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Концепція цифрових прав людини: пошук нових підходів до обґрунтування у порівняльній перспективі

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Анотація. Актуальність дослідження полягає в необхідності адаптації правової бази до викликів цифрової епохи шляхом визначення принципів відповідального цифрового розвитку та забезпечення рівного доступу до цифрових можливостей. Метою статті був порівняльний аналіз концепцій та класифікацій цифрових прав людини, зокрема, визначення критеріїв їх класифікації, аналіз права на доступ до Інтернету як ключового цифрового права та вивчення кращих практик різних країн (Канади, Естонії, Литви та України). У дослідженні використано порівняльний аналіз, правовий аналіз, документальний аналіз, описовий метод та системний аналіз для вивчення концепції та класифікації цифрових прав людини, їхньої практичної реалізації та впливу на реалізацію інших основоположних прав. Нечіткість критеріїв віднесення цифрових прав до фундаментальних ускладнює розробку міжнародних правових норм для безпечного та демократичного цифрового майбутнього. У дослідженні підкреслено важливість доступу до Інтернету як ключового права, що сприяє реалізації інших цифрових прав і зменшує цифрову нерівність. Аналіз практики країн з розвиненою інфраструктурою та законодавством показав, що ефективна цифрова трансформація зменшує дискримінацію, пов'язану з доступом, та обмеження прав в офлайн-середовищі. Практичне значення дослідження полягає у формулюванні рекомендацій щодо вдосконалення правового регулювання цифрових прав та забезпечення загального доступу до Інтернету як ключового інструменту соціальної рівності та розвитку

Ключові слова: права людини; цифровізація; цифрові права людини; право на доступ до Інтернету

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State information policy in the context of hybrid threats: Legal and political aspects

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Abstract. The study aimed to identify the main ways to optimise the state information policy in order to strengthen the ability to withstand complex hybrid challenges. The study examined modern approaches to the definition of hybrid threats and their impact on the information sphere of the state. The legal mechanisms of information policy regulation in the context of countering hybrid threats have been considered, and the effectiveness of political tools for formulating and implementing the state's information strategy in the context of hybrid warfare is assessed. The analysis showed the complex and multidimensional nature of hybrid threats, which significantly complicates the process of forming an effective information policy. In the period from 2014 to 2024, Ukraine's legal and regulatory framework in the field of information security has developed significantly but still has gaps, in particular in the flexibility of legal norms and mechanisms of interagency coordination. The assessment of the effectiveness of policy instruments showed significant progress in strengthening Ukraine's institutional capacity to counter information threats but revealed the need for further improvement of coordination mechanisms and development of public-private partnerships. The study proposed a conceptual model of an integrated system of state information policy that demonstrates high efficiency in responding to various hybrid threat scenarios. The key success factor is the system's ability to constantly adapt and learn. The results emphasised the need for an integrated approach to information security, including legal, institutional, technological, and

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social aspects. Special attention was paid to the development of research capacity in the field of information security and the introduction of innovative technologies to counter emerging hybrid threats. The results of the study have expanded the theoretical understanding of information policy in the context of hybrid threats, which has allowed to provide practical recommendations for improving the relevant state strategies

Keywords: national security; cybersecurity; disinformation; strategic communications; media literacy; cyber defence

Introduction

In today's world, where information technologies are rapidly evolving, and the geopolitical landscape is increasingly complex, the state information policy has become critically important. Hybrid threats, which combine elements of conventional and unconventional warfare, pose new challenges to national security and sovereignty. These threats often materialise in the information domain, highlighting the necessity of an effective information policy to protect and advance national interests. The growing role of information as a strategic resource and an instrument of influence in international relations drives the urgency of this study. It seeks to address gaps in understanding the relationship between legal norms, political decisions and practical measures in information security. Furthermore, analysing Estonia's, the United States, and the EU's experiences in countering hybrid threats can provide valuable insights into improving national information policy strategies.

This research responds to the need for a comprehensive analysis of the legal and political dimensions of state information policy formation and implementation in hybrid threat contexts. Existing regulatory approaches often fail to effectively address modern challenges such as disinformation, cyberattacks, and public opinion manipulation. This highlights the urgent need to develop new strategies and mechanisms tailored to hybrid threats while ensuring a balance between information freedom and national security. An analysis of the scientific literature demonstrates the growing interest of researchers in this area. However, a comprehensive understanding of the relationship between legal norms, political decisions and practical measures in the field of information security remains insufficiently developed

Regarding the legal aspects of information policy and hybrid threats, A. Sari's (2020) study introduced "legal resilience" as a key element in countering such threats. The author emphasised the need to adapt legal systems to new challenges, but the issue of practical implementation of this concept in national legislation remains open. Developing this topic, E. Reichborn-Kjennerud and P. Cullen (2022) conducted a thorough analysis of the concept of "hybrid warfare", emphasising its multidimensionality, including information, cyber and economic aspects. However, their work does not fully reveal the specifics of the formation of the state's information policy in such conditions. Complementing this analysis, H. Ördén (2020) examined the EU's policy on information threats, pointing to the tendency to "defer the essence" in the EU's approaches, which can lead to an ineffective response to hybrid threats and, as evidenced by Ukraine's current situation, has led to a catastrophic lack of a proper political, legal, institutional and social mechanism for responding to information operations discrediting the Ukrainian state.

When analysing the international landscape, M. Mälksoo's (2020) work on the EU and NATO's approaches to countering hybrid threats through ontological security management is particularly noteworthy. This approach offers new insights into the strategic aspects of information policy but requires further development to account for national contexts. In the same vein, M.L. Miller and C. Vaccari (2020) analysed digital threats to democracy, offering a comparative analysis and possible solutions. Their study highlighted the need for a balance between ensuring freedom of information and countering disinformation, which is a key challenge for modern information policies. Adding to this discussion, D. Ghelani (2022) examined aspects of cybersecurity, emphasising the need for a comprehensive approach to cyber threats that includes technical, political, and legal aspects.

At the same time, C. Whyte (2020) considered the problem of disinformation created by artificial intelligence as a multilevel challenge for public policy. This work highlighted the need to develop new approaches to regulating the information space in the context of technological innovation. Amid current geopolitical challenges, A. Khorram-Manesh *et al.* (2023) analysed the social and health impacts of Ukraine's hybrid war, highlighting the need to consider the broad consequences of hybrid threats in information policy. Expanding the theoretical framework, D. Schiller (2024) proposed new approaches to understanding information in the modern world, which can serve as a basis for rethinking the principles of the state's information policy in the context of hybrid threats. To conclude the review of the scientific discourse on this issue, it is worth mentioning the study by T. Voropayeva and N. Averianova (2021), which focused on the priority areas of Ukraine's state policy in the field of information and economic security. The authors emphasise the importance of the "smart power" strategy in countering hybrid threats, but the specific mechanisms for implementing this strategy need further study.

In summary, despite extensive research, several aspects of state information policy in the context of hybrid threats remain underexplored. Key issues requiring further analysis include adapting legislation to emerging information threats, improving coordination among state institutions, and developing strategies to engage civil society in countering hybrid threats. In addition, an important area for further research is the development of methodological approaches to assessing the effectiveness of information policy in hybrid conflicts. Therefore, this study aimed to identify key areas for enhancing state information policy on hybrid threats, with a focus on legal and political aspects. To achieve this goal, the study was focused on:

1) analyse contemporary approaches to defining hybrid threats and their impact on the state's information sphere.

2) examine legal mechanisms for regulating information policy in the context of hybrid threat mitigation.

3) assess the effectiveness of political instruments in shaping and implementing the state's information strategy amid hybrid warfare.

Materials and methods

The study's source base comprises Ukrainian legal acts on information security, including, Law of Ukraine No. 2163-VIII "On the Basic Principles of Ensuring Cybersecurity of Ukraine" (2017), Decree of the President of Ukraine No. 47/2017 "On the Decision of the National Security and Defence Council of Ukraine of 29 December 2016 "On the Doctrine of Information Security of Ukraine" (2016), and also Law of Ukraine No. 2404-VI "On Public-Private Partnership" (2010). The analysis included international documents such as the Joint Communication to the European Parliament and the Council: "Joint Framework on Countering Hybrid Threats – A European Union Response" (2016), as well as U.S. legislation, including Public Law of United States No. 115-278 "Cybersecurity and Infrastructure Security Agency Act" (2018) and Executive Order of the President of United States No. 14028 "Improving the Nation's Cybersecurity" (2021). Additionally, Estonia's cybersecurity regulations (Ministry of Economic Affairs and Communications of the Republic of Estonia, 2019) were examined.

Key sources of information included reports and analyses from international organisations, notably the European Centre of Excellence for Countering Hybrid Threats (Hybrid CoE, 2021). Cyber threat statistics from the KnowBe4 report (Cyberattacks on infrastructure…, 2024) were examined, and the National Cyber Security Index (2024) was utilised to evaluate Ukraine's cybersecurity progress. To achieve this goal, the research methodology integrated qualitative and quantitative approaches to analyse Ukraine's legal framework, international regulatory documents, and policy implementation mechanisms. Content analysis was employed to systematically examine legal acts, strategic documents, and scholarly publications on information security, enabling the identification of key trends in hybrid threat development. The institutional approach was applied to examine legal mechanisms regulating information policy and the functions of specialised bodies, facilitating an assessment of the institutional structure's effectiveness. Scenario modelling was employed to analyse potential hybrid threat scenarios, enabling an assessment of the proposed information policy model's adaptability. A SWOT analysis was conducted to evaluate the strengths, weaknesses, opportunities, and threats in Ukraine's information policy, facilitating the systematisation of findings and the formulation of informed recommendations for enhancing information policy amid hybrid threats. The authors examined the evolution of the "hybrid threats" concept and its impact on the state's information sphere.

The study assessed the effectiveness of political instruments in shaping and implementing the state's information strategy amid hybrid warfare. It examined the institutional framework supporting Ukraine's information policy, particularly the roles of specialised bodies such as the National Coordination Centre for Cybersecurity and the Centre for Strategic Communications and Information Security. Additionally, it evaluated interagency coordination mechanisms and public-private partnerships in information security. A conceptual model for an integrated state information policy system is developed. Based on this model, the system's response to various hybrid threat scenarios was simulated, enabling an assessment of its adaptability and effectiveness in addressing information security challenges. The study employed expert assessments to evaluate the effectiveness of government programs and strategies in information security. Specifically, it analysed the implementation of Ukraine's Cybersecurity Strategy 2016-2020, as reflected in the draft Cybersecurity Strategy of Ukraine 2021-2025 (2021).

To assess Ukraine's progress in information security from 2014 to 2024, key performance indicators are examined using data from international rankings, including the National Cyber Security Index (2024), along with statistics on cyber incidents and information attacks. The study also explored the impact of hybrid threats on democratic processes and institutions, focusing on mechanisms of electoral interference and public opinion manipulation through information operations. Additionally, it examined international approaches to countering hybrid threats, analysing the information policies of the EU, NATO, and countries such as the United States, Estonia, and the United Kingdom – selected for their extensive experience in addressing hybrid threats and developing comprehensive information security strategies. Particular attention was given to international cooperation mechanisms in cybersecurity and threat intelligence sharing.

Results

Analysis of contemporary approaches to defining hybrid threats and their impact on the information sphere of the state. Between 2014 and 2024, the concept of hybrid threats gained prominence in scientific and political discourse due to the increasing complexity and multidimensional nature of modern conflicts, which extend beyond traditional military confrontation. M. Galeotti (2018) defines hybrid threats as the strategic use of various state influence mechanisms, including diplomatic, informational, military, and economic instruments, to achieve objectives without formally declaring war. This interpretation highlights the multifaceted nature of modern challenges, which often emerge in the ambiguous space between peace and open conflict. Ukrainian researchers, particularly Kh.O. Mishchenko (2020), expand this concept by emphasising the information dimension, defining hybrid threats as a combination of influence mechanisms designed to undermine statehood, including information manipulation, economic pressure, cyberattacks, and the use of proxy forces. Notably, the concept of hybrid threats is dynamic, evolving alongside technological advancements and geopolitical shifts. For instance, a study by the European Centre of Excellence for Countering Hybrid Threats (Hybrid CoE, 2021) highlights the increasing role of artificial intelligence and quantum computing in shaping new forms of hybrid threats.

Analysing current definitions of hybrid threats reveals several key types, particularly relevant to the information sphere, that collectively pose complex challenges to national security. The most prevalent type is disinformation campaigns, which systematically spread false or manipulative information to shape public opinion and influence decision-making. L. Rosenberger (2020) highlights how these campaigns undermine democratic processes and national security. Equally significant are cyberattacks, which target information systems to disrupt operations, steal data, or inflict economic damage. The severity of this issue is highlighted by statistics, with cyberattacks increasing by 600% during the COVID-19 pandemic. Closely related are social media influence operations, which exploit digital platforms to manipulate public opinion, polarise society, and erode trust in government institutions (Zelenov, 2024).

Research from the Oxford Internet Institute indicates that over 80 countries have established systems for leveraging social media to shape public discourse (Bradshaw *et al.,* 2021). The fourth type is economic influence through information tools, which leverages various sources and channels to destabilise the economy, manipulate market mechanisms, or undermine financial stability. The fifth type, known as lawfare (legal warfare), involves the strategic exploitation of legal frameworks and international law to achieve geopolitical objectives. O.F. Kittrie (2022) examines how certain states manipulate international legal instruments to legitimise aggressive actions in the information space. For instance, the Russian Federation frequently cites the principles of responsibility to protect (R2P) and self-defence to justify its cyber operations against other states. In the 2008 conflict with Georgia, Russia justified it cyberattacks on Georgian government websites and infrastructure as a "defence" of the Russian-speaking population in South Ossetia, manipulating international legal principles to legitimise its actions in cyberspace.

These information threats are highly adaptable, difficult to detect and attribute, and capable of rapid escalation. Their synergistic nature amplifies their impact, creating a complex and dynamic challenge for state information security. In the current geopolitical landscape, hybrid threats pose an increasingly complex and multifaceted challenge to national information security, impacting various aspects of public life, including politics, economics, and culture. These threats undermine state authority, eroding public trust in government institutions, the media, and other key entities (Van Raemdonck & Meyer, 2024). This process is closely linked to societal polarisation, driven by targeted manipulative information campaigns. As P.M. Krafft and J. Donovan (2020) demonstrate, such campaigns not only deepen existing social, ethnic, and political divisions but also foster radicalisation and the spread of extremist ideologies. The economic impact of hybrid threats is particularly significant, especially for developing countries. A notable example is the 2022 cyberattack on Costa Rica's government agencies, which resulted in unprecedented economic losses amounting to 2.4% of the country's annual GDP (Vergara Cobos, 2024).

This incident underscores the vulnerability of national economies to digital threats and the urgent need for robust cyberdefense systems. Equally concerning is the impact of hybrid attacks on critical infrastructure. A recent KnowBe4 analysis highlights a significant rise in both the frequency and scale of such cyberattacks. Between 2023 and 2024, over 420 million cyberattacks were recorded, averaging 13 incidents per second – a 30% increase from the previous year. The U.S. energy sector proved particularly vulnerable, with approximately 60 new power grid vulnerabilities identified daily (Cyberattacks on infrastructure…, 2024). These findings highlight the urgent need for more effective strategies to safeguard critical infrastructure. Hybrid threats significantly affect democratic processes, particularly through electoral manipulation and political interference (Davies, 2021). These actions undermine the legitimacy of democratic institutions and contribute to broader political destabilisation. Hybrid threats significantly affect democratic processes, particularly through electoral manipulation and political interference (Davies, 2021). These actions undermine the legitimacy of democratic institutions and contribute to broader political destabilisation. These operations target national identity, undermine cultural values, and create artificial conflicts based on cultural differences. The Ukrainian case exemplifies the destructive impact of identity crisis technologies and so-called "identity-destructive traditional weapons" (Kresina, 2024).

The cumulative impact of hybrid threats on national information security must be emphasised. While individual incidents may appear inconsequential, their convergence creates a complex web of threats. This underscores the need for states to develop comprehensive, multi-level countermeasures that address the interconnections between various components of information security and safeguard national interests in the information space. To address these challenges, countries are adopting comprehensive cyber defence and information resilience programs. Specifically, Ukraine's Cybersecurity Strategy, approved by Decree of the President of Ukraine No. 447/2021 (2021), aims to enhance the national cyber defence system, bolster the defence sector's ability to combat cyber threats, and ensure the security of the digital space. At the global level, cooperation mechanisms to combat hybrid threats are being developed. For instance, NATO's specialised Centre of Excellence coordinates member states' efforts in this area (Hybrid CoE, 2021).

In conclusion, the analysis of contemporary approaches to hybrid threats and their impact on the state's information sphere highlights the complexity of this phenomenon. The study identified various hybrid threats, including disinformation campaigns, cyberattacks, social media influence operations, and the abuse of legal mechanisms. Emphasis was placed on the adaptability of these threats and their potential for rapid escalation. The analysis of hybrid threats' impact on state information security underscores the need for a comprehensive counterstrategy. Additionally, the evolving nature of these threats necessitates continuous updates to their definition and assessment, offering opportunities for further research.

Study of legal mechanisms for regulating information policy in the context of countering hybrid threats. As hybrid threats become increasingly complex and intense, legal mechanisms for regulating information policy are essential to national security. This section provides a detailed analysis of Ukraine's legal framework, international practices, and prospects for legislative improvements in countering information threats. Ukraine's legal framework for information policy and security has undergone significant revisions, particularly between 2014 and 2024. A key document shaping state policy in this area is Decree of the President of Ukraine No. 47/2017 "On the Decision of the National Security and Defence Council of Ukraine of 29 December 2016 "On the Doctrine of Information Security of Ukraine" (2016). This regulatory act defines the state's strategic interests in information security, identifies potential risks, and establishes the main priorities and directions of government strategy in information policy.

A significant advancement in Ukraine's legislative framework was the adoption of Law of Ukraine No. 2163-VIII "On the Basic Principles of Ensuring Cybersecurity of Ukraine" (2017). This law establishes the foundation for safeguarding the critical interests of individuals, civil society, and the state in the digital domain. It defines key objectives, strategic priorities, and fundamental principles of state cyber defence policy. Additionally, it delineates the

responsibilities of government institutions, private enterprises, NGOs, and individuals while introducing mechanisms for coordinating efforts to ensure the robust protection of national cyberspace. Decree of the President of Ukraine No. 447/2021 (2021) establishes a hierarchy of Ukraine's key interests in cyberspace protection. It identifies existing and potential digital threats that could undermine citizens' fundamental rights, societal stability, and national security. The strategy also outlines priority directions and a conceptual framework for developing and implementing state policy to ensure a secure digital environment, benefiting individuals, civil society, and the state as a whole. Despite significant progress in legislative development, certain gaps and shortcomings remain. Notably, clearer mechanisms for coordinating state agencies in countering information threats are needed. The current interagency cooperation framework often lacks the agility to respond effectively to the rapidly evolving information environment, potentially weakening efforts to combat hybrid threats.

An analysis of global legal approaches to regulating the information space amid hybrid threats reveals diverse methods and strategies employed by states and supranational entities. The European Union has developed a comprehensive strategy to combat hybrid threats, integrating both regulatory and structural initiatives. The EU adopted the Joint Communication to the European Parliament and the Council "Joint Framework on Countering Hybrid Threats a European Union Response" (2016), which outlines key strategic directions in this domain. In 2017, the European Centre of Excellence for Countering Hybrid Threats was established to foster strategic discussions and conduct analytical research on hybrid challenges. The United States also prioritises legislative regulation of information security. Public Law of United States No. 115-278 (2018) created a specialised agency to protect critical infrastructure from cyber threats. Executive Order of the President of United States No. 14028 (2021) introduced enhanced security standards for government agencies and their contractors. Estonia, recognised as a leader in cyber defence, offers a particularly noteworthy approach. Its Cybersecurity Strategy 2019-2022 prioritises strengthening cyber resilience and enhancing international cooperation (Ministry of Economic Affairs and Communications of the Republic of Estonia, 2019). The Estonian model follows a total defence concept, integrating state institutions, the business sector, and civil society organisations into cybersecurity efforts.

An analysis of Ukrainian legislation and international practices reveals significant gaps in the regulatory framework for countering information threats. These deficiencies hinder efforts to maintain effective information security amid rapid technological advancements and evolving hybrid challenges. The absence of a clear legal framework defining the criminal nature of Russian hybrid influence, particularly in the context of prolonged latent aggression against Ukraine, remains a significant challenge. Cyberterrorism has become a key instrument in the aggressor's warfare, especially following the large-scale invasion on February 24, 2022. However, both national and international legal systems continue to treat such acts of information terrorism as secondary concerns.

First, the rigidity of legal norms remains a critical issue, stemming from the rapid evolution of information technology and the ever-changing nature of threats. The existing legal framework often fails to keep pace with reality, creating gaps that criminals can exploit. Addressing this challenge requires the development of more adaptive legislative instruments capable of responding swiftly to shifts in the information landscape. The second major challenge is the inefficiency of coordination among key stakeholders in information security. This issue extends beyond intergovernmental communication to include collaboration between the government, the private sector, and non-governmental organisations. Weak coordination results in functional redundancies, inefficient resource allocation, and a diminished overall capacity to counter information threats effectively. Addressing this challenge requires a comprehensive approach to establishing a unified management system and enhancing coordination in information security. Particular attention must be given to balancing national security with the protection of civil rights and freedoms, a complex task at the core of effective information policy formulation.

Enhancing security in the information space often entails certain restrictions, raising concerns about potential violations of fundamental rights, including privacy and free expression. Striking an optimal balance between security and civil liberties is crucial for developing and modernising information security legislation. Given the global nature of modern information threats, strengthening international cooperation is also essential for improving legal regulation. Effective mechanisms for international data exchange and coordinated responses to cyber threats are urgently needed. This requires not only aligning national legislation with international standards but also strengthening Ukraine's role in shaping the global information security framework. Additionally, fostering public-private partnerships is essential for advancing cybersecurity legislation. Given the substantial private ownership of strategically important infrastructure, effective collaboration between the state and business is vital for ensuring the country's information security. This necessitates the development of legislative measures to encourage businesses' active participation in cyberspace protection, alongside clear definitions of cooperation mechanisms between the public and private sectors in cyber defence.

Given the identified shortcomings, the modernisation of the legislative framework for addressing information challenges should focus on several strategic areas. A priority is the creation of a comprehensive regulatory act on countering hybrid threats, defining key principles, tools, and definitions. This document should serve as the foundation for an integrated system ensuring the country's information security. Simultaneously, attention should be given to optimising algorithms for rapid response to information challenges, including the creation of specialised units and the development of targeted cooperation schemes among information security actors. An important step is to strengthen cyber defence regulations for entities managing critical infrastructure, thereby enhancing the security of strategically important elements. An urgent task is aligning Ukraine's legal framework with international standards and best practices in cyberspace protection, facilitating the country's integration into the global system for countering information threats.

Assessment of the effectiveness of political instruments in shaping and implementing state information strategy amid hybrid warfare. Amid escalating global geopolitical tensions and increasing hybrid challenges, particularly between 2014 and 2024, evaluating the effectiveness of state mechanisms for shaping and implementing information

strategy is crucial. This section provides a comprehensive analysis of existing instruments, assesses their effectiveness, and proposes strategies for optimising political measures to counter hybrid threats in the information domain. Over the past decade, Ukraine's information strategy in hybrid confrontation has undergone significant transformation, shaped by interrelated political mechanisms. This evolution was driven by the need to address escalating information threats and establish an effective system for countering hybrid challenges. A cornerstone of this system is strategic planning, reflected in the adoption of the updated Cybersecurity Strategy of Ukraine in 2021 (Decree of the President of Ukraine No. 447/2021, 2021). This regulatory act defined the key directions of state policy in the information sector, focusing on securing the information environment, fostering its development within Ukraine, and safeguarding citizens' constitutional right to access information.

The adoption of this strategy addressed the urgent need for a comprehensive approach to information security and laid the groundwork for enhancing the implementation of state information policy. Alongside strategic planning, the institutional framework for information policy was reinforced. A key step was the establishment of the Ministry of Information Policy (Decree of the President of Ukraine No. 449/2014, 2014), later restructured as the Ministry of Culture and Information Policy in 2019 (Resolution of the Cabinet of Ministers of Ukraine No. 829, 2019). This transition aimed to centralise the management of the information domain, enhance coordination among agencies, and strengthen state efforts to counter information threats. Additionally, specialised units were established within the Security Service of Ukraine, the Ministry of Defence, and other state agencies, enhancing the state's information security capabilities and supporting the development of a multi-layered system for protecting national interests in the information sphere.

The legal and regulatory framework has been a crucial element in developing an effective information strategy. Key legislative measures, including Law of Ukraine No. 2163-VIII (2017) and Law of Ukraine No. 2469-VIII (2018), along with the modernisation of Law of Ukraine No. 2657-XII (1992) and the introduction of Law of Ukraine No. 2849-IX (2023), were designed to combat disinformation and manipulative practices. These regulations addressed emerging challenges in the information space and equipped the state with essential tools to safeguard national interests in the digital domain.

Recognising the global nature of modern information threats, Ukraine has strengthened international cooperation, particularly with the EU and NATO, to counter hybrid challenges. Participation in joint exercises, knowledge exchange, and the development of countermeasures against information attacks have been crucial in enhancing national information security and advancing Ukraine's integration into the international cyber defence system (Jeong *et al.*, 2024). Simultaneously, public diplomacy and strategic communication mechanisms were expanded, including the establishment of the Ukrainian Institute and the increased engagement of diplomatic missions to promote a positive image of Ukraine (Ministry of Foreign Affairs…, 2021). These initiatives sought to foster a favourable international environment and counter information manipulation on a global scale. Despite significant progress in developing political instruments for implementing the information strategy, their effectiveness is often hindered by weak institutional synergy and the absence of a centralised authority in information security. Addressing this challenge remains a priority for Ukraine, necessitating further efforts to optimise information security governance and enhance interagency coordination.

An assessment of Ukraine's information security programs and strategies from 2014 to 2024 presents a mixed record of achievements and challenges. Analysis of the Cybersecurity Strategy of Ukraine 2016-2020 indicates limited effectiveness, with experts estimating that only 40% of the planned objectives were achieved (Decree of the President of Ukraine No. 96/2016, 2016). Despite significant efforts to strengthen Ukraine's cyber defence, several critical tasks remain unfulfilled. An effective mechanism for exchanging information on cyber threats has yet to be established, nor has there been sufficient progress in training qualified specialists or implementing a robust model of public-private sector cooperation. Of particular concern is the underdeveloped cybersecurity research base, which severely limits the ability to address emerging threats.

Despite these challenges, significant progress has been made in strengthening the state's institutional capacity. The establishment of the National Coordination Centre for Cybersecurity under the National Security and Defence Council of Ukraine (Decree of the President of Ukraine No. 47/2017, 2016) and the development of sectoral cyber incident response centres have enhanced Ukraine's ability to address cyber threats. Additionally, the creation of the Centre for Strategic Communications and Information Security (Ministry of Culture and Strategic Communications of Ukraine, 2021) and the implementation of disinformation monitoring and countermeasures have improved the detection and neutralisation of information attacks. These efforts are reflected in international rankings. The National Cyber Security Index (2024) shows Ukraine's significant progress, rising from 25th place in 2020 to 11th in 2023. This highlights the positive trend and Ukraine's increasing role as a key partner in international cybersecurity initiatives, underscored by its active participation in EU and NATO programs. Despite these achievements, the effectiveness of state programs and strategies in information security remains limited by factors such as insufficient funding, a lack of qualified personnel, and inadequate interagency coordination. These issues highlight the need for further development of the national cybersecurity system to effectively address modern information threats.

Based on the analysis, we propose a set of interrelated recommendations for enhancing political instruments to counter hybrid threats in the information sphere. These recommendations focus on establishing a coherent and effective system for safeguarding Ukraine's national interests in the information space. The primary objective is to strengthen coordination and centralise management through the creation of a unified information security coordination centre. This centre should facilitate effective interagency collaboration and a swift response to hybrid threats, addressing existing fragmentation and improving overall effectiveness in countering information threats. Simultaneously, developing an early warning system through a comprehensive monitoring and analysis framework is essential for the timely detection of potential threats and the preparation of preventive measures, crucial in the rapidly evolving information environment. Strengthening the regulatory framework by adopting a comprehensive law on countering hybrid threats is also

necessary to establish a clear legal structure for activities in this area. This law should define the roles and responsibilities of various stakeholders in information security, minimising function overlap and enhancing collaboration between government agencies and the private sector.

Strengthening international cooperation by increasing Ukraine's participation in global cybersecurity initiatives and enhancing information exchange with EU and NATO partners is vital for its integration into the global cyber defence system (Cherleniak & Tokar, 2024). This approach will not only provide access to innovative technologies but also bolster Ukraine's reputation as a reliable ally in combating transnational cyber threats. Establishing an effective public-private cooperation model and enhancing collaboration between government agencies and the business sector in cybersecurity are essential for protecting critical infrastructure and information assets. This requires a structured exchange of threat intelligence and joint development of defence strategies, leveraging the expertise and resources of both sectors to more effectively combat cyber threats.

Enhancing digital and media literacy through a national program is crucial for bolstering society's resilience to information manipulation. This will improve cyber hygiene across the population and cultivate a skilled workforce to combat disinformation and information attacks. Developing a national cyber defence system by investing in Ukrainian cyber defence technologies and training skilled information security professionals is essential for ensuring technological independence and strengthening human resource capacity (Lyndyuk *et al.*, 2023). Enhancing strategic communications through a unified national strategy is crucial to effectively counter disinformation and promote a positive image of Ukraine domestically and internationally. Implementing these interrelated recommendations will establish a comprehensive system for countering hybrid threats in the information sphere, enhancing Ukraine's national security and resilience to contemporary information challenges. To fully understand the dynamics of political instruments and the effectiveness of state programs in Ukraine's information security from 2014 to 2024, it is useful to examine key indicators and their changes over time. Table 1 summarises the main aspects of Ukraine's information security system transformation, highlighting both achievements and challenges.

Table 1. Development dynamics of Ukraine's information security system (2014-2024)

Indicator	2014-2018	2019-2024	Trend
Institutional support	Creation of the MIP	Reorganisation into MCIP, establishment of NCCC	Positive
Legislative framework	Basic laws	Comprehensive upgrade	Positive
International cooperation	Start of active cooperation	Deepening integration	Positive
Countering disinformation	Fragmented measures	Establishment of a CSC, a systematic approach	Positive
National Cyber Security Index rating	25th place (2020)	11th place (2023)	Positive
Implementation of the Cybersecurity Strategy	–	40% (2016-2020)	Moderate
Public-private partnerships	Underdeveloped	At the stage of formation	Moderate
Human resources support	Insufficient	An improvement, but still not enough	Moderate

Note: MIP – Ministry of Information Policy; MCIP – Ministry of Culture and Information Policy; NCCC – National Coordination Centre for Cybersecurity; CSC – Centre for Strategic Communications and Information Security
Source: compiled by the authors

The analysis of the data reveals an overall positive trend in the development of Ukraine's information security system over the past decade. However, despite notable achievements, areas requiring further optimisation remain, including enhancing public-private sector collaboration and improving the efficiency of strategic initiatives. These unresolved issues underscore the need to continue strengthening Ukraine's defence capabilities to counter modern complex information threats, a crucial component for ensuring national stability and establishing a robust national security system, which cannot be achieved without addressing hybrid threats.

Modelling an integrated system of state information policy in the context of hybrid threats. Given the rapid evolution of information technologies and the intensification of hybrid challenges from 2014 to 2024, developing a comprehensive state information strategy is crucial for ensuring national security. This section of the study examines the conceptual framework of information policy, identifies key elements of the information security system, and forecasts its effectiveness under various hybrid threat scenarios. The conceptual model of state information policy in the context of hybrid threats must account for the complex interplay of legal, political, technological, and social factors. Based on an analysis of contemporary approaches to information policy and the specifics of hybrid threats, the following structure is proposed (Table 2).

Table 2. Structure of the conceptual model of the state information policy

Model component	Key elements
Legal and regulatory framework	Constitutional principles of information policy
	Legislative framework in the field of information security
	International agreements and commitments

Table 2, Continued

Model component	Key elements
Institutional architecture	System of public administration bodies in the field of information policy
	Mechanisms for coordination and interaction between different institutions
	Public-private partnership structures
Strategic planning	National Information Security Strategy
	Sectoral and regional information infrastructure development programmes
	Mechanisms for monitoring and evaluating the effectiveness of strategies
Technological infrastructure	Critical infrastructure cyber defence systems
	National cyber threat information exchange platforms
	Technologies for detecting and neutralising disinformation
Human capital	Training system for specialists in the field of information security
	Programmes to improve the digital literacy of the population
	Mechanisms for engaging the expert community
International cooperation	Participation in international cybersecurity organisations and initiatives
	Bilateral and multilateral cooperation agreements
	Mechanisms for sharing experience and technology

Source: created by the authors

The model incorporates recommendations from Ukraine's Draft of the Cybersecurity Strategy (2021-2025), which underscores the importance of developing a national cyber resilience system, fully aligning with the proposed conceptual framework. Based on this model, key elements of the information security architecture can be identified, along with their interdependencies. The central node of this architecture is the Centre for Strategic Management and Coordination, tasked with developing and implementing a unified state information security policy. This body ensures coordination among institutions and facilitates interaction with the business sector and the public. As outlined in the Decree of the President of Ukraine No. 242/2016 "On the National Coordination Centre for Cybersecurity" (2016), these functions are assigned to the National Coordination Centre for Cybersecurity under the National Security and Defence Council of Ukraine.

An early warning system, combining technological monitoring tools, analytical hubs, and rapid response teams, is in place to quickly detect and neutralise threats. The key component of this system is CERT-UA, regulated by Law of Ukraine No. 2163-VIII (2017). The law enforcement and counter-intelligence sectors focus on detecting, preventing, and investigating cybercrime and information sabotage by foreign intelligence services. This responsibility primarily falls to the Security Service of Ukraine and the National Police, whose powers are defined by the Law of Ukraine No. 2229-XII (1992) and Law of Ukraine No. 580-VIII (2015), respectively. The educational and scientific complex plays a crucial role in training specialists, conducting research, and developing innovative technologies in information security.

It includes leading universities, research institutions, and innovation centres. In Ukraine, key institutions in this field include the National Technical University of Ukraine "Igor Sikorsky Kyiv Polytechnic Institute", with its specialised cybersecurity programs; Kharkiv National University of Radio Electronics, known for its strong information technology and security programs; and Lviv Polytechnic National University, which houses the Institute of Computer Technology, Automation, and Metrology, training information security specialists. This segment's activities are governed by Law of Ukraine No. 848-VIII (2015). The Strategic Communications System is tasked with formulating and implementing state information policy, countering disinformation, and promoting national interests internationally. The Centre for Strategic Communications and Information Security, established in 2021, plays a central role (Ministry of Culture and Strategic Communications of Ukraine, 2021).

The public-private partnership platform facilitates effective collaboration between the public and private sectors in information security. It includes mechanisms for data exchange, joint training, and the development of security standards. The legal framework for these partnerships is outlined in Law of Ukraine No. 2404-VI (2010). This multi-level structure enables the creation of a comprehensive information protection system that adapts to dynamic changes in the cyber threat landscape and effectively counters contemporary hybrid challenges. The interaction and synergy between the components of the conceptual state information policy model are facilitated through interrelated mechanisms, forming an integrated ecosystem for information space protection. The central element is a unified system for exchanging data on cyber incidents and threats, ensuring the rapid dissemination of critical information across all participants in the information security system.

This system is closely integrated with databases and analytical platforms for in-depth threat analysis and forecasting. The system's effectiveness is reinforced by regular joint exercises and training involving representatives from various agencies, the private sector, and international partners, enhancing preparedness for cyber incidents and fostering a shared understanding of threats. Coordination and strategic decision-making are supported by coordination councils and working groups, which serve as platforms for addressing issues, developing common approaches, and aligning actions within a unified state information security policy.

Together, these elements create a flexible, adaptive, and effective system for countering the evolving landscape of hybrid threats. This system of components and their interrelationships aligns with the recommendations in Information and Analytical Digest No. 7 (July) "Cybersecurity in the Information Society", prepared by the State Scientific Institution Institute of Information, Security, and Law of the National Academy of Legal Sciences of Ukraine and the Vernadsky National Library of Ukraine (Dovgan *et al.*, 2023).

The digest highlights the importance of enhancing coordination among cybersecurity stakeholders and developing public-private partnership mechanisms. To assess the effectiveness of the proposed state information policy model in the context of hybrid threats, three scenarios were analysed, and the system's response to each was predicted (Table 3).

Table 3. Analysis of the information security system response to various hybrid threat scenarios

Aspect	Scenario 1. Large-scale cyberattack	Scenario 2. Long-term information operation	Scenario 3. Technological breakthrough in the field of artificial intelligence
Nature of the threat	Coordinated cyberattack on energy and financial systems, accompanied by disinformation	Systematic spread of disinformation through social media and mass media	Emergence of new types of cyber threats associated with the development of artificial intelligence
Key components of the response	1. Centre for Strategic Management and Coordination. 2. Early detection system. 3. The law enforcement block. 4. Strategic communications system. 5. Public-private partnership platform.	1. Early detection system. 2. Strategic management centre. 3. Educational and scientific complex. 4. Strategic communications system. 5. The law enforcement block.	1. Educational and scientific complex. 2. Strategic management centre. 3. Public-private partnership platform. 4. Early detection system. 5. International cooperation.
Main actions	1. Activation of the crisis protocol. 2. Identification of attack sources. 3. Investigations and international cooperation. 4. Informing the population. 5. Exchange of information with critical infrastructure operators.	1. Identification of disinformation narratives. 2. Developing a long-term strategy. 3. Implementation of media literacy programmes. 4. Campaign to refute fakes. 5. Blocking disinformation networks.	1. Researching new threats. 2. Update the regulatory framework. 3. Cooperation with technology companies. 4. Adaptation of detection algorithms. 5. Development of international safety standards.
Response timeframe	Short-term (hours to days)	Long-term (months to years)	Medium-term (weeks to months)
Efficiency	High	Medium	Moderate
Key challenges	1. Speed of response. 2. Coordination between agencies. 3. Minimising losses.	1. Duration of exposure. 2. Change in public opinion. 3. Identifying hidden sources of disinformation.	1. Technological complexity. 2. The need for significant resources. 3. Adaptation to rapid changes.
Key advantages of the model	Ability to quickly mobilize resources and coordinate actions	A systematic approach to long-term threats	Flexibility and adaptability to new technological challenges
Areas for improvement	Improving the speed of information exchange between agencies	Developing methods for assessing the effectiveness of long-term strategies	Strengthening research capacity and international cooperation

Note: it is important to note that the modelling presented is based on the authors' assessment and reflects potential scenarios of information security system response. These forecasts are hypothetical and require further verification through empirical research and practical testing. The results of the modelling should be considered as a starting point for a more in-depth analysis and discussion among information security professionals. Further research, including quantitative analysis and field experiments, is needed to validate the proposed scenarios and refine the predictions of system effectiveness in different hybrid threat environments
Source: created by the authors

Based on the modelling and analysis of various hybrid threat scenarios, the proposed integrated state information policy system demonstrates strong potential in addressing modern information security challenges. The model is highly effective in responding to acute crises, systematically countering long-term information operations, and adapting to new technological challenges. The analysis also highlighted the need to enhance interagency coordination, develop research capacity, and strengthen international cooperation to effectively address the evolution of hybrid threats. A key success factor is the system's capacity for continuous adaptation, necessitating regular reviews and updates of strategies, technologies, and regulations in response to the evolving information threat landscape. Implementing the proposed model and recommendations for its improvement will significantly enhance the state's information security and resilience to hybrid challenges in the long term.

Discussion

The study identified key aspects of developing and implementing the state information strategy in the context of hybrid challenges. It included a detailed analysis of Ukraine's information policy and security framework, an assessment of political mechanisms for countering hybrid threats, and the proposal of a theoretical model for a comprehensive information policy system. The findings highlight the need for a holistic approach to information security, integrating legal, organisational, technical, and social dimensions. Reviewing Ukraine's legal framework for information security reveals significant progress in legislation from 2014 to 2024, including the adoption of key laws and strategic documents.

Comparisons with the study by S. Kalniete and T. Pildegovičs (2021) showed similar trends in the development of the legal framework at the EU level. The authors stress the importance of a comprehensive legal framework for countering

hybrid threats, aligning with this study's conclusion on the need for a national law on hybrid threats in Ukraine. However, unlike the EU's emphasis on supranational coordination mechanisms, this study focuses on strengthening the national information security system, reflecting Ukraine's unique geopolitical position and the need for rapid response to immediate threats. The study highlighted the need to strengthen coordination among government agencies and establish a centralised decision-making body for information security.

These findings align with M. Wigell's (2021) study, which emphasised the importance of integrated structures to effectively counter hybrid threats. M. Wigell (2021) came up with the idea of "democratic deterrence", which calls for active participation of civil society in fighting hybrid threats. This study's focus on creating partnerships between the government and private sector in information security fits well with this idea. However, unlike the author's focus on foreign policy, this study proposes a more comprehensive approach addressing both internal and external aspects of information policy. An assessment of the effectiveness of political mechanisms for countering hybrid threats identifies shortcomings in the implementation of state initiatives and strategies for information security in Ukraine (Metelskyi & Kravchuk, 2023).

These findings align with C. Tenove's (2020) work on protecting democratic principles from disinformation. C. Tenove (2020) focused on the normative risks of restricting freedom of expression in efforts to combat disinformation. This aligns with the study's findings on the need to balance national security with the preservation of civil rights and freedoms. However, unlike C. Tenove's (2020) focus on social media policy, this study provides a more comprehensive analysis, addressing legislative, institutional, and technological aspects of countering disinformation. This broader perspective offers a deeper understanding of the issue's complexity and supports the development of more effective strategies for protecting the information space.

The conceptual model of the integrated state information policy proposed in this study parallels the approach presented by S. Bondarenko *et al.* (2022), who also stress the need for a systematic approach to strategic national security planning in the context of societal informatisation. However, unlike S. Bondarenko *et al.'s* (2022) focused on technological aspects, this model adopts a more balanced approach, incorporating legal, institutional, and social factors. The study modelled the information security system's response to various hybrid threat scenarios, including a large-scale cyberattack, a prolonged information operation, and a technological breakthrough in artificial intelligence. The analysis revealed that the proposed information policy model is highly effective in responding to acute crises, systematically countering long-term information operations, and adapting to new technological challenges.

Particular attention was given to the scenario of a long-term information operation, involving the systematic spread of disinformation via social networks and media. These findings align with M. Clark's (2020) study on Russian hybrid warfare, which analyses russia's tactics and strategies in information warfare. M. Clark's (2020) emphasises the importance of a systematic approach to countering disinformation and building societal resilience to information manipulation, which is consistent with this study's recommendation for long-term strategies to address information threats. This study offers a broader analysis of hybrid threats, encompassing not only military but also civilian aspects of information security. Unlike M. Clark, who focuses primarily on the military dimension of hybrid warfare, this study also examines the economic, social, and technological aspects. This comprehensive approach enables a more thorough assessment of the impact of hybrid threats on various societal and state sectors, which is particularly relevant given current information challenges.

This study highlights the critical role of innovation in shaping new hybrid threats, particularly through the development of artificial intelligence and quantum computing, which pose new challenges to cyber defence systems. These findings align with P. Kivimaa's (2022) conclusions on the need to transform innovation policy for global security. Author emphasised the development of "safe by design" technologies, which complements this study's recommendations to strengthen research capacity in information security domain. While P. Kivimaa (2022) examined innovation policy primarily in the context of environmental security, this study focuses on the information aspects of national security. Effective responses to technological challenges in information security require not only national efforts but also active international cooperation (Kassymzhanova *et al.*, 2022).

In this regard, the study's findings on the role of international collaboration in countering hybrid threats align with those of M. Weissmann *et al.* (2021). The authors highlighted the importance of international cooperation in countering asymmetric threats, aligning with this study's recommendation to enhance Ukraine's involvement in international cybersecurity initiatives. However, while M. Weissmann *et al.* (2021) focused on international cooperation in the context of military security, this study emphasises the information aspects, including technology and experience exchange in cyber defence. A key element of international cooperation in information security is the harmonisation of regulatory approaches. It is worth paying attention to the study by B. Farrand (2024), which examined the problem of regulating political advertising in the online space. Author proposed the concept of "regulatory mercantilism" in digital policy, which correlates with the findings of this study on the need to improve the legal framework for regulating the information sphere. However, if B. Farrand (2024) focused mainly on the economic aspects of regulation, this study proposes a broader approach, taking into account the security and social aspects of information policy.

This study focused on the impact of hybrid threats on democratic institutions and processes. In the context of analysing the political instruments for the formation and implementation of the state information strategy, it was found that hybrid threats have the potential to significantly undermine trust in state institutions, in particular in the bodies responsible for conducting elections. The study found that information operations can cause a deep split in society, manipulate public opinion, and interfere with electoral procedures, which poses a serious threat to the democratic system as a whole. These conclusions align with and complement the work of H.A. Garnett and T.S. James (2020), who explored the impact of digital technologies on the electoral process.

Their analysis of both the positive and negative aspects of technology in elections supports the comprehensive approach proposed in this study. H.A. Garnett and T.S. James (2020) examined a range of innovations,

including electronic voting systems, voter verification, and tools for predicting election results. Notably, their call for balancing innovation and security in the electoral process aligns with this study's recommendations for an integrated approach to information security. The researchers emphasised the need for flexible regulatory mechanisms that enable the benefits of new technologies while minimising risks to electoral integrity. This approach aligns with our proposed concept of an adaptive information security system, designed to respond effectively to dynamic changes in the information environment.

Comparing this study's results with C. Whyte *et al.* (2021) work on information warfare in the era of cyber conflicts reveals a shared recognition of the complex nature of modern information threats. C. Whyte *et al.* (2021) stressed the need to integrate cybersecurity and information operations, aligning with the integrated information policy system proposed in this study. However, while C. Whyte *et al.* (2021) focused primarily on interstate conflicts, this study offers a broader perspective, incorporating internal aspects of information security. Overall, the study is highly relevant to current scientific discussions on information policy and countering hybrid threats. It provides a comprehensive analysis of the legal and political aspects of information security, considering both Ukraine's national context and global trends. The study's strength lies in its interdisciplinary approach, enabling a multifaceted analysis and the proposal of integrated solutions.

Conclusions

The study successfully identified key areas for improving state information policy in the context of hybrid threats, considering both legal and political aspects. Analysis of contemporary definitions of hybrid threats highlights their complex and multidimensional nature, posing significant challenges to the development of an effective state information policy. Hybrid threats, which integrate traditional and non-traditional warfare methods, present new challenges to national security and sovereignty. Disinformation campaigns, cyberattacks, social media influence operations, and economic pressure through information channels are particularly concerning. An analysis of legal mechanisms for regulating information policy in response to hybrid threats reveals significant progress in Ukraine's legal framework from 2014 to 2024. The adoption of key laws and strategic documents, including Decree of the President of Ukraine No. 47/2017 and the Cybersecurity Strategy, established the foundation for a comprehensive information security system. However, the analysis also identified legislative gaps, such as the limited adaptability of legal norms in a rapidly evolving information landscape and the need for improved interagency coordination mechanisms.

An assessment of the effectiveness of political instruments in shaping and implementing Ukraine's information strategy in the context of hybrid confrontation has revealed significant progress in building institutional capacity to counter information challenges. The establishment of specialised structures, such as the National Coordination Centre for Cybersecurity and the Centre for Strategic Communications, has significantly enhanced the state's ability to identify and neutralise information attacks. The study also highlights the need to enhance interagency cooperation mechanisms and strengthen public-private partnerships in information security. The proposed theoretical model of an integrated information policy system shows significant potential in addressing modern information challenges.

It proves effective in responding to crises, systematically countering long-term information campaigns, and adapting to emerging technological threats. A key success factor is the system's ability to continuously adapt and evolve, necessitating regular updates to strategies, technologies, and regulatory frameworks in response to the dynamic information threat landscape. The study underscores the importance of a comprehensive approach to information security that integrates technical, legal, organisational, and social dimensions. Essential components of an effective information policy include fostering public-private partnerships, strengthening international cooperation, and enhancing digital literacy.

Additionally, prioritising research capacity in information security and adopting innovative technologies are crucial for countering emerging hybrid threats. A key limitation of this study is the absence of empirical data to validate the effectiveness of the proposed theoretical model in real-world conditions. Future research should focus on empirical studies to test theoretical conclusions, the development of quantitative methods for assessing information policy effectiveness against hybrid threats, and an analysis of international strategies for countering emerging information attacks, particularly those involving artificial intelligence. Another crucial area for further investigation is the impact of hybrid threats on democratic processes and the development of mechanisms to safeguard electoral integrity amid information warfare.

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Державна інформаційна політика в умовах гібридних загроз: правові та політичні аспекти

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Анотація. Метою дослідження було визначення основних шляхів оптимізації державної інформаційної політики з метою посилення спроможності протистояти складним гібридним викликам. У дослідженні проаналізовано сучасні підходи до визначення гібридних загроз та їх впливу на інформаційну сферу держави. Розглянуто правові механізми регулювання інформаційної політики в контексті протидії гібридним загрозам та оцінено ефективність політичних інструментів формування та реалізації інформаційної стратегії держави в умовах гібридної війни. Аналіз виявив комплексний та багатовимірний характер гібридних загроз, що значно ускладнює процес формування ефективної інформаційної політики. У період з 2014 по 2024 роки нормативно-правова база України у сфері інформаційної безпеки зазнала значного розвитку, але все ще має прогалини, особливо в частині гнучкості правових норм та механізмів міжвідомчої координації. Оцінка ефективності політичних інструментів засвідчила значний прогрес у зміцненні інституційної спроможності України протидіяти інформаційним загрозам, але виявила необхідність подальшого вдосконалення механізмів координації та розвитку державно-приватного партнерства. У дослідженні запропоновано концептуальну модель інтегрованої системи державної інформаційної політики, яка демонструє високу ефективність у реагуванні на різні сценарії гібридних загроз. Ключовим фактором її успіху є здатність системи до постійної адаптації та навчання. Результати дослідження підкреслили необхідність комплексного підходу до забезпечення інформаційної безпеки, що включає правовий, інституційний, технологічний та соціальний виміри. Особливу увагу приділено розвитку дослідницького потенціалу у сфері інформаційної безпеки та впровадженню інноваційних технологій для протидії новим гібридним загрозам. Результати дослідження розширили теоретичне розуміння інформаційної політики в умовах гібридних загроз, що дозволило надати практичні рекомендації щодо вдосконалення відповідних державних стратегій

Ключові слова: національна безпека; кібербезпека; дезінформація; стратегічні комунікації; медіаграмотність; кіберзахист

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Countering cyber attacks in the Republic of Kazakhstan: Interdisciplinary issues and legal frameworks in the context of social security and economic stability

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Abstract. The study aimed to develop theoretical and methodological foundations and practical recommendations for improving the system of countering cyberattacks, covering legal, technical and organisational mechanisms for ensuring cybersecurity. The study was based on a comprehensive interdisciplinary approach using systemic analysis, formal legal, comparative legal and descriptive statistics methods. The statistics analysis for 2020-2024 revealed a rapid increase in the number and complexity of cyberattacks. In 2024, 4,507 cases of malware were recorded, more than doubling year-on-year. The study confirmed that the small and medium-sized business segment was the most vulnerable: in the banking sector alone, in the second half of 2024, losses from cyberattacks totalled Kazakhstani tenge 1.5 billion, with 35% of attacks using social engineering techniques. An analysis of the structure of cyberattacks showed that 62% of the total number of cyberattacks were directed at the public sector, of which 28% targeted critical infrastructure. The study determined that about 70% of successful interventions are related to the human factor – insufficient staff qualifications

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and system configuration errors. Significant gaps in Kazakhstan's cyber defence system are identified: lack of effective interagency coordination mechanisms, insufficient regulation of public-private partnerships, and inefficiency of the existing legal framework for regulating the liability of critical infrastructure operators. The author substantiated the need to create a single cyber defence coordination centre that will combine the efforts of the state monitoring system KZ-CERT and the industry system FinCERT and proposes economic mechanisms to stimulate investment in cyber security through a system of tax incentives and grant programmes. The peculiarities of the cybercrime investigation process were analysed, including the procedures for video recording of equipment seizure and the specifics of procedural registration of evidence. According to the General Prosecutor's Office of the Republic of Kazakhstan, in 2023, 476 criminal cases of cybercrime were brought to court, of which 312 resulted in guilty verdicts. The research findings formed a comprehensive understanding of the relationship between the legal, technical, and socio-economic aspects of cybersecurity and proved the need for systematic interaction between all stakeholders in countering cyber threats

Keywords: information systems; digital evidence; malware; critical infrastructure; public-private partnerships

Introduction

In the context of rapid digitalisation and growing cyber threats, the issue of countering cyberattacks in the Republic of Kazakhstan is becoming particularly relevant. Information security challenges require a comprehensive interdisciplinary approach and improved legal protection mechanisms. Ensuring cybersecurity is becoming a critical factor in maintaining social stability and economic development of the country, especially in the context of growing cross-border cybercrime and increasing geopolitical tensions. The need to develop effective strategies to counter cyberattacks is driven by their potential impact on Kazakhstan's critical infrastructure, financial sector and national security, as well as the growing complexity and sophistication of cybercriminals' methods. In the context of the global digital transformation, it is of particular importance to create a reliable system of protection against cyberattacks that considers technological, socio-economic and legal aspects of security.

A comprehensive analysis of the scientific literature demonstrates the diversity of approaches to solving cybersecurity problems in Kazakhstan. The study by A.M. Satbayeva *et al.* (2024) on international cooperation in combating cybercrime underlined the need to harmonise national legislation with international standards and expand cooperation between states under the auspices of the United Nations. The authors analysed in detail the activities of the "K" Department of the Ministry of Internal Affairs and the 2023 Cyberpol Strike Task Force pilot project, noting their key role in combating a wide range of cybercrime. The researchers emphasised the importance of establishing international cybercrime units that would have the right to transfer traffic data, extradite and provide assistance.

Developing the technological aspect of the problem, M. Bolatbek *et al.* (2024) presented an innovative system for analysing the illegal use of Internet resources in university networks by developing network real-time network activity monitoring and creating a specialised dictionary of extremist terms in Kazakh. Their research successfully integrated advanced machine learning models to classify network traffic and proposed an experimental architecture for connecting educational organisations to enhance cybersecurity. K. Bishmanov *et al.* (2024) have significantly contributed to the development of technical aspects of countering cyberterrorism by developing a comprehensive plan that includes innovative approaches to tracking network traffic and analysing data transmission using Python code. Their structural scheme for systemising the process of countering cyberattacks covers the entire cycle from identifying potential threats to evaluating the effectiveness of the measures taken. K. Azanbay (2024) conducted an in-depth analysis of the introduction of innovative technologies to ensure information security, combining a systematic analysis of Kazakhstan's legislation with empirical modelling of the key principles of technological innovation. The author proposed such innovations as integrated circuits, virtual client protection, big data analytics, and advanced cloud security, emphasising their advantages over traditional systems in terms of resource efficiency and scalability.

The social aspect of the problem is explored in depth by M. Jekebayeva *et al.* (2023), who focused on studying youth cybersecurity issues and developing recommendations for creating a safe digital environment. Based on a large-scale survey, they identified critical gaps in youth awareness of cyber threats and proposed comprehensive educational programmes on the basics of safe internet use and personal data protection. The researchers stressed the importance of developing cooperation between government agencies, the private sector and educational institutions to create an effective system of protection against cyber threats.

A comprehensive legal analysis of the issue was presented by several researchers. S. Shaisultanov *et al.* (2024) and K. Zhakenov *et al.* (2024) conducted a comprehensive analysis of the legal aspects of combating cybercrime using formal logical and systemic-structural analysis methods. The authors examined in detail the regulatory framework of Kazakhstan and the European Union (EU) countries in the field of combating Internet fraud, studied the activities of authorised entities in the field of crime prevention, and analysed international experience in this area. R. Jilkishiyev and Y. Begaliyev (2024) conducted an in-depth analysis of the problems faced by law enforcement agencies and information security professionals in investigating cybercrime. They identified critical problematic aspects, including the low level of technical support, insufficient funding for the industry, and the lack of a dedicated law enforcement agency to investigate cybercrime.

A. Pollini *et al.* (2022) conducted a detailed analysis of the effectiveness of cybersecurity measures by addressing them in the context of the human factor in healthcare organisations. Their study determined that security measures are often implemented in the form of complex procedures that do not sufficiently support the daily work of employees. The researchers emphasised the importance of a holistic approach to cybersecurity that addresses individual, organisational and technological factors. They developed recommendations for improving cybersecurity systems by leveraging the human factor and implementing non-technical

countermeasures, such as user awareness programmes. A. Saraswat and G. Tiwari (2025) conducted a systematic analysis of cybersecurity issues in the energy sector, focusing on legal mechanisms for protecting critical energy infrastructure. The study determined that the energy sector accounted for 10.7% of reported cyberattacks in 2022, including notable incidents affecting renewable energy facilities. The study highlighted the importance of international cooperation and legal mechanisms in countering cyber threats, examining the application of various provisions of the UN Charter to cyberattacks.

S. Zabikh (2020) conducted a fundamental study of the problems of information security and methods of identifying threats in the information sphere. The author emphasised the importance of protecting the rights and interests of citizens, society and the state in the information space from real and potential threats. The researcher analysed the international experience of legal regulation of information security and the possibilities of its application in the Republic of Kazakhstan, emphasising the growing influence of modern information systems on politics, economy and the spiritual and ideological sphere of society. An analysis of the scientific literature shows significant progress in the study of various aspects of countering cyberattacks in Kazakhstan, including technological solutions, legal mechanisms, social aspects and international cooperation. At the same time, the issues of creating a unified system for countering cyber threats, improving the legislative framework in line with international standards, and developing domestic technological infrastructure remain unresolved.

The study aimed to provide theoretical and methodological substantiation and develop scientific and practical recommendations for improving the system of countering cyberattacks in the Republic of Kazakhstan based on a comprehensive interdisciplinary analysis of legal, technical and organisational mechanisms for ensuring cybersecurity in the context of socio-economic stability. The objectives of the study were:

1) to analyse the current state of legal regulation of countering cyberattacks in the Republic of Kazakhstan, to identify the main gaps in the legislation and to propose ways to improve it, addressing international standards and best practices of other countries.

2) to study the peculiarities of qualifying and investigating cyberattacks, including forensic characteristics, methods of collecting digital evidence and specifics of procedural design, to increase the effectiveness of law enforcement activities in the field of combating cybercrime.

3) to develop comprehensive recommendations for improving the system of countering cyberattacks based on an interdisciplinary approach, including measures to develop public-private partnerships, stimulate investment in cybersecurity and increase the level of digital literacy of the population.

Materials and methods

The empirical basis of the study was formed by a wide range of legal acts, statistics and analytical materials. The key source of statistical information was the data of the National Computer Emergency Response Team, which covers the period of 2020-2024 and contains detailed information on the number and types of cyber incidents (KZ-CERT, n.d.). Separately, the data of the Financial Security Department KZ-FinCERT on incidents in the banking sector, statistics of the General Prosecutor's Office of the Republic of Kazakhstan on cybercrime investigations, and materials of the National Security Committee on countering cyberterrorism were analysed (Incident overview for…, 2024; Only 5% of…, 2023). This data was processed using statistical methods to identify trends and patterns in the dynamics of cyber threats.

Among the regulatory sources, the author analyses the provisions of the Resolution of the Government of the Republic of Kazakhstan No. 407 "On Approval of the Concept of Cybersecurity" ("Cyber Shield of Kazakhstan") (2017), the Criminal Procedure Code of the Republic of Kazakhstan (2014) and the Penal Code of the Republic of Kazakhstan (2014), and the Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015). In the international legal aspect, the Convention on Cybercrime (2001), and materials of the European Police College on the standards of training for cybercrime investigators were analysed (CEPOL Knowledge Centres, n.d.). An important source of information was official reports and press releases of government agencies, including Report on the implementation of the Strategic Plan of the Ministry of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan for 2020-2024 (2021), press releases of the Ministry of Internal Affairs and the National Bank of Kazakhstan (Turlybek, 2023, 2024; New types of fraud..., 2024; Anti-Fraud Center…, 2025). To study the international context, reports and analytical materials by Cybersecurity Ventures on global losses from cybercrime, a study by the International Monetary Fund on the impact of cyberattacks on financial stability, analytical data by Datami Newsroom (2024) on the role of the human factor in cybersecurity breaches, and materials by PortSwigger on vulnerability bounty programmes were used. Additionally, the materials of leading international organisations in the field of cybersecurity were analysed, in particular, INTERPOL (2022) and Organization for Security and Co-operation (OSCE) reports, which contain important information on international cooperation in combating cybercrime (Leyden, 2023; Calif, 2023; International Monetary Fund & Monetary and Capital Markets Department, 2024; Concluding event of…, 2024).

The theoretical and methodological basis of the study is a comprehensive interdisciplinary approach to analysing the problems of countering cyberattacks in the Republic of Kazakhstan, based on the concept of the socio-legal and economic dimensions of cybersecurity. This conceptual framework, developed by A. Dimitriadis *et al.* (2020), E. Karafili *et al.* (2020), and A.Y. Ofori and D. Akoto (2020), was used to analyse cyberattacks as a complex threat to the social stability and economic development of the state, which requires a multidimensional analysis of legal, social and economic aspects. The research methodology is based on a combination of general scientific and special legal methods. A comprehensive study of the legal framework and institutional mechanisms for countering cyberattacks was conducted using the systemic analysis method, which was used to identify systemic shortcomings in regulation and propose ways to eliminate them. The statistical method was used to analyse the dynamics and structure of cyber incidents, which identified the main trends in the development of cyber threats and assessed the effectiveness of countermeasures.

The formal legal method was used for a detailed analysis of the provisions of Kazakhstan's national legislation, which made it possible to identify the specifics of legal regulation of countering cyberattacks and gaps in regulatory support.

The comparative legal method was used to compare Kazakhstan's experience with international practices of combating cybercrime, especially in the context of implementing the provisions of international treaties. The modelling method was used to develop recommendations for improving the cybersecurity system. Quantitative methods were key to processing and analysing data on the dynamics of cyber incidents in 2020-2024, which was used to identify the main trends in the development of cyber threats.

The research was conducted in three stages, which ensured consistency and completeness of the analysis. The first stage involved a theoretical analysis of the problem of countering cyberattacks, systematisation of the regulatory framework and definition of the conceptual framework of the study. The second stage examined the peculiarities of qualifying and investigating cyberattacks, developed a classification of digital evidence, and analysed the specifics of its collection and evaluation. In the third stage, a comprehensive analysis of interdisciplinary issues and the legal framework for countering cyberattacks in the context of ensuring social security and economic stability was carried out, which allowed the author to formulate systematic conclusions and practical recommendations for improving the mechanisms for countering cyber threats. Additionally, the method of expert assessments was applied by conducting interviews with cybersecurity and law enforcement experts to validate the results and recommendations.

Results

Theoretical aspects of countering cyber attacks. Cyberattacks are one of the most complex and multifaceted threats of our time, as they affect not only the information systems of individual companies, government agencies and infrastructure facilities but also the stability of socio-economic processes in the country. The Resolution of the Government of the Republic of Kazakhstan No. 407 (2017) defines a computer attack as a targeted attempt to implement a threat of unauthorised influence on or access to information, an electronic resource, an information system using software or hardware (or interconnection protocols). This document emphasises the importance of protecting the national information and communication infrastructure from various cyber threats, including unauthorised actions aimed at violating the confidentiality, integrity and availability of information systems.

In the context of the Republic of Kazakhstan, the issue of countering cyberattacks has become of strategic importance after several legislative and policy documents came into force, among which the Law of the Republic of Kazakhstan No. 418-V (2015) is central. This law stipulated a legal basis for regulating social relations arising in the field of creation and use of electronic information resources, systems and networks, and defined the competence of authorised state bodies in the field of cybersecurity. However, the practice has demonstrated that legislative consolidation of basic provisions alone is not enough to effectively counter the rapid evolution of attack methods. The technologies used by criminals are often ahead of the capabilities of law enforcement agencies, which necessitates a comprehensive analysis of cyber threats from the standpoint of criminal law, forensics, socio-economic impact and international legal cooperation.

From the legal and scientific perspective, one of the most important aspects of countering cyberattacks is to clearly define their classification and characteristics. A common type of cyberattack is distributed denial of service (DDoS) attacks, in which attackers overload a server or network with multiple requests, forcing the target system to temporarily or completely stop working (Metelskyi & Kravchuk, 2023). This type of impact is particularly dangerous when targeting government portals or financial institutions, as it can disrupt their operations and cause significant economic damage. In 2024, 105 incidents related to DDoS attacks were registered, which continues the trend of annual decline in the number of such attacks in 2020-2024 (Incident overview for…, 2024). Despite the effectiveness of measures to counter DDoS attacks, cybercriminals are actively developing other methods of unauthorised interference. Phishing poses a particular danger, as its dynamics demonstrate a heterogeneous nature – periods of significant growth are followed by periods of decline, which may indicate that attackers are adapting to the protective mechanisms being implemented.

Phishing is the fraudulent acquisition of confidential data (passwords, logins, bank card details) by sending emails or creating fake web pages that look like legitimate resources. According to statistics, 3,947 cases of phishing were detected on the Internet (KZ-CERT, n.d.). Phishing is often underestimated, but it causes direct financial losses and affects a significant segment of ordinary users, thus undermining trust in digital services and e-government. In addition, the category of cyberattacks includes the spread of malware, which accounts for a significant portion of all incidents (4,507 cases in 2024), and unauthorised intrusions into corporate or government networks aimed at stealing information, espionage or extortion.

Statistics confirm the heterogeneity of cybersecurity trends. DDoS attacks are demonstrating a downward trend, while other types of cyberattacks are characterised by increasing complexity. As shown by the dynamics of cyber incidents in 2020-2024 (Fig. 1), DDoS attacks recorded in 2024 demonstrate not only a high level of technical organisation but also the use of distributed infrastructures, such as botnets, which make it difficult to identify the initiators and effectively counteract them. Similarly, many phishing incidents, which cause both financial and reputational losses, indicate systemic vulnerabilities in the architecture of digital platforms and imperfect user authentication mechanisms, which creates the preconditions for successful social engineering attacks.

The Ministry of Internal Affairs of the Republic of Kazakhstan is actively countering cyberattacks, recognising the growing threat posed by international criminal groups. In 2024, the Department for Combating Cybercrime was established, highlighting the need to improve organisational structures and defence strategies (Turlybek, 2024). In addition, the holding of international conferences, such as "Cybercrime in the CIS: Current Trends and Directions of Counteraction", demonstrates the significant attention to the issue of international cooperation in combating transnational threats. This, in turn, requires strengthening mechanisms for information exchange, coordination between states, and the development of technical means of monitoring and protection. In particular, the high level of malware incidents confirms the need to improve technical solutions and strengthen legal and organisational response mechanisms.

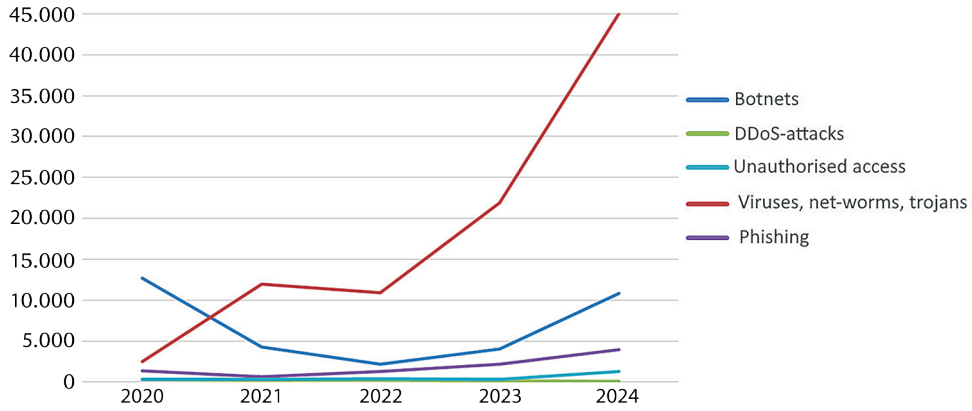

Figure 1. Dynamics of cyber incidents in Kazakhstan (2020-2024)
Source: compiled by the authors based on KZ-CERT (n.d.)

The analysis of graphical data on the dynamics of cyber incidents in the Republic of Kazakhstan over the past 5 years indicates the existence of complex transformation processes in the field of cybersecurity, which require appropriate regulatory and legal response and improvement of counteraction mechanisms. A trend towards the qualitative evolution of cyberattack methods is notable, which is confirmed by changes in their structure and intensity. In particular, the cyclical nature of botnet activity indicates that attackers are constantly adapting to the security measures implemented, which necessitates regular updates of regulatory requirements for critical infrastructure operators to monitor network traffic.

The relative stabilisation of the number of DDoS attacks (from 290 cases in 2020 to 105 cases in 2024, with a gradual annual decrease of 8-12%) may indicate the effectiveness of the implemented legislative protection mechanisms and relevant technical solutions, however, the simultaneous increase in phishing incidents (with an average annual growth rate of 30% in 2020-2022 and further acceleration to 74% in 2023 and 83% in 2024) demonstrates a shift in the focus of cybercriminals towards social engineering, which requires strengthening legal regulation in the field of personal data protection and improving mechanisms for identifying users of digital services. The exponential increase in malware-related incidents points to the need to develop and implement new legal instruments to counter the automated spread of cyber threats, including mechanisms for international cooperation and information exchange on new types of malwares.

The identified trends in the development of cyber threats require a review of criminal legislation on the qualification of cybercrime and increased liability for their commission, which raises the issue of creating specialised units to investigate high-tech crimes and develop appropriate forensic techniques. An analysis of international practice shows significant differences in approaches to punishment for cybercrime. In the United States, according to the Computer Fraud and Abuse Act (1986), the sanctions for cyberattacks include imprisonment for up to 10 years (up to 20 years for repeat offences) in cases of obtaining nationally important information (a)(1), causing damage to a computer system by intentional malicious interference (a)(5)(A), and in cases of intentional access for fraud (a)(4) – up to 5 years (up to 10 years for repeat offences). In the European Union, the punishment for cybercrime is established following the Directive of the European Parliament and of the Council No. 2013/40/EU "On Attacks Against Information Systems and Replacing Council Framework Decision 2005/222/JHA" (2013), which obliges Member States to ensure effective, proportionate and dissuasive criminal sanctions. According to Article 9 of this Directive, the minimum penalty for such crimes should be at least two years in prison (in cases that are not minor), and for the malicious use of tools intended to commit cybercrime – up to three years in prison. The most serious cases, including attacks on critical infrastructure, crimes causing serious damage, or actions as part of an organised criminal group, should be punishable by imprisonment for at least five years. At the same time, in Kazakhstan, according to Article 205 of the Penal Code of the Republic of Kazakhstan (2014), unlawful access to information systems entails much milder sanctions, including fines, correctional labour or arrest for up to 50 days, and only in cases of serious consequences, imprisonment for up to two years is possible. This imbalance in the approaches to the qualification and sanctions for cybercrime demonstrates the need to harmonise Kazakhstan's criminal legislation with international standards, which will help strengthen digital security, increase the effectiveness of preventive measures and expand mechanisms for international cooperation in the field of cybersecurity. Improving sanctions, especially concerning attacks on critical infrastructure, as well as developing public-private partnerships and introducing modern digital security measures are key elements in ensuring effective countering cybercrime in the face of modern threats (Kassymzhanova *et al.*, 2022).

The theoretical framework for the study of cyberattacks, therefore, has an interdisciplinary basis, covering criminological and criminal law analysis of offenders' behaviour, technical aspects of information security, as well as socio-economic and political-legal consequences of attacks. On the one hand, a cyberattack can undermine the stability of entire industries, such as the energy, healthcare or telecommunications sectors. On the other hand, it poses large-scale social risks: the leakage of personal data and confidential information reduces the level of trust in digital services and creates concerns among the population that e-government and commercial services are not sufficiently protected (Mazur & Flogaitis, 2023). Finally, cyberattacks are directly related to national security and the observance of citizens' rights and freedoms, as they concern the protection of personal and state secrets, information sovereignty and economic stability.

In this context, the legal regulation of the powers of state bodies, the formation of specialised cybersecurity units and the development of comprehensive state programmes, such as the Resolution of the Government of the Republic of Kazakhstan No. 407 (2017), aimed at developing the domestic information security infrastructure, professional development of specialists, as well as international cooperation, are of high priority. The legal assessment of cyberattacks is based on the analysis of the relevant provisions of the Penal Code of the Republic of Kazakhstan (2014), which establishes criminal liability for unauthorised access to computer information, creation, use and distribution of malicious software, as well as for violation of the rules for the operation of automated information systems. However, even with the relevant articles of the Criminal Code of the Republic of Kazakhstan, the problem of evidence and lack of technical capabilities of law enforcement agencies remains relevant, which creates the need for special training and close cooperation with IT experts (UNODC and partners…, n.d.).

Therefore, the theoretical aspects of countering cyberattack in the Republic of Kazakhstan are primarily related to the formation of a comprehensive understanding of the nature of these crimes, their forms and methods of commission, as well as the analysis of how legislation, science and practice respond to the new challenges of the digital age. Given the rapid change in technology and the international nature of cyberattacks, national laws should incorporate the provisions of international agreements and be guided by the best practices of other countries that have developed their cyber defence models. Legal regulation should not be limited to repressive measures – effective deterrence of cybercrime requires a preventive, educational, scientific and technical approach that allows the system of countering cyberattacks to be timely adapted to evolving methods and means of their implementation. Without such an interdisciplinary framework and constant monitoring of new forms of threats, it is impossible to guarantee an adequate level of social security and economic stability in the country, especially since cyberattacks are increasingly becoming a tool not only for criminals but also for politically motivated actions. As the experience of international cooperation within INTERPOL (2022) and the OSCE shows, a comprehensive approach based on clear regulation in national legislation, effective interagency coordination and the involvement of international partners is the most effective way to prevent cyberattacks and minimise their negative consequences (Concluding event of…, 2024). INTERPOL coordinates global operations against organised cybercrime, combining the efforts of law enforcement agencies and the private sector to identify and neutralise cyber threats. The OSCE, for its part, implements regional projects to build capacity in the fight against cybercrime, promoting international cooperation and the exchange of best practices among participating States. For Kazakhstan, the project "Capacity Building on Combating Cybercrime in Central Asia" (n.d.), covering five Central Asian states and aiming to develop a domestic cybercrime counteraction system, is notable. The project implements a comprehensive training programme for law enforcement officials on cybercrime investigation methods, procedures for handling digital evidence, and the use of modern technologies in law enforcement. The practical implementation of the project involves regular training and seminars for representatives of law enforcement agencies in Kazakhstan to improve their cybersecurity skills. The effectiveness of this approach is confirmed by the successful holding of specialised training on digital forensics in May 2022 with the participation of experts from Kazakhstan, Kyrgyzstan and Uzbekistan, which created additional opportunities for the exchange of experience and the establishment of professional contacts between law enforcement agencies in the region (OSCE trains Central…, 2022). Thus, the successful counteraction to cyberattacks in Kazakhstan requires a multifaceted strategy that integrates national legislative improvements, international cooperation, and continuous professional training, ensuring the country's resilience against evolving cyber threats.

Peculiarities of qualification and investigation of cyber attacks. Criminal law regulation of countering cyberattacks in the Republic of Kazakhstan is based on the provisions of the Penal Code of the Republic of Kazakhstan (2014), which defines objective and subjective signs of crimes related to the disruption of information systems and electronic networks. According to the analysis of the text of the Penal Code of the Republic of Kazakhstan, the most relevant articles in this context are the provisions on unauthorised access to information resources, creation and distribution of malicious software and disruption of the normal functioning of computer systems. At the same time, the legislator provides for punishment proportionate to the scale of damage or danger posed by such interference to economic, social and national security.

To qualify a particular act, it is necessary to address the object of the attack (confidentiality, integrity or availability of information), the method and consequences of the attack, as well as the presence of direct or indirect intent. For example, a DDoS attack that blocks the operation of a government portal may fall under "Unlawful interference with the operation of an information system", while the theft of a confidential database using special software qualifies as "Unauthorised access to an information system" or "Creation, use or distribution of malicious computer programs" (Penal Code of the Republic of Kazakhstan, 2014). It is necessary to distinguish between situations where a person intentionally causes harm or seeks to gain mercenary benefit from cases of unintentional actions, as well as to address the degree of preparation of the crime, its group nature or cross-border aspect.

In qualifying cyberattacks, the subjective side of the act and the motives of the offender should be emphasised. In law enforcement practice, it is necessary to recognise the difference between intentional actions aimed at causing damage and cases where interference with information systems occurs without criminal intent. This is of fundamental importance for the correct qualification of the act and the distinction between criminal offences and administrative or disciplinary violations. The proper differentiation of sanctions and consideration of the actual harm or threat posed by such acts is crucial to ensure effective criminal law policy and proportionality of punishment concerning cyberattacks, which have recently become increasingly complex.

The forensic characterisation of cyberattacks is based on a set of methods used by attackers and the typical traces they leave in the digital environment. According to the data on the specifics of collecting and evaluating digital evidence (Table 1), attacks are increasingly being carried out with the help of special vulnerability search tools (exploit kits), botnets and artificial intelligence (AI) programs, which allow

automating the intrusion process. DDoS attacks, phishing, watering hole attacks (injecting malicious code into visited websites), and malware that can be embedded in files or distributed via USB drives or infected emails are noteworthy. To hide tracks, criminals commonly use VPN services, the Tor network, fake IP addresses and traffic encryption methods, making it difficult to identify specific perpetrators. In such circumstances, the investigation requires high-quality digital forensics, which includes analysing log files, and network traffic, recovering deleted and encrypted data, and capturing and examining metadata. Hardware and software tools for cloning hard drives, collecting RAM images, and hashing seized media are becoming increasingly important. If these procedures and techniques are not followed, the results of the examinations may be declared inadmissible, making it impossible to fully prove the offender's guilt in court. Law enforcement agencies insist on the need to carefully comply with the standards of authenticity of electronic evidence, by recording checksums and maintaining detailed procedural documentation.

Table 1. Specifics of collecting and evaluating digital evidence in the investigation of various types of cyberattacks

Type of cyber attack	Key digital evidence	Specifics of the collection	Difficulties in proving	Expertise requirements
Computer viruses, network worms, trojans	Malware samples, memory dumps, antivirus logs	The need to quickly identify new software samples	Virus polymorphism and encryption	Reverse engineering and analysis of malware behaviour
Botnet attacks	IP addresses, C2 server data, botnet controller logs	Monitor the distributed network of infected devices	The difficulty of de-anonymising botnet operators	Technical analysis of botnet command traffic
Phishing attacks	Email logs, DNS records, HTML code of fake pages	Quick response due to the short lifespan of phishing sites	Proving intent when using fake accounts	Linguistic expertise in emails, technical analysis of domains
Unauthorised access	Access logs, authorisation logs, exploit traces	Real-time recording of unauthorised access attempts	Use of anonymous or temporary accounts	Access system forensics and event log analysis
DDoS attacks	Traffic logs, NetFlow data, server logs	Rapid analysis of large volumes of network traffic	Attacks can be disguised as normal traffic	Analyse network traffic, correlate events in real-time
Attacks on banking systems	Transaction logs, SWIFT records, monitoring system data	Synchronise data from different banking systems	Differences in time stamps due to different time zones	Financial, economic computer and technical expertise
Insider data leaks	Access logs, copy history, network traffic	Preserving the integrity of file metadata to identify the culprit	Difficulty in distinguishing between business and non-business use	Expertise in data storage media following the organisation's security policies

Source: compiled by the authors based on A. Dimitriadis *et al.* (2020), E. Karafili *et al.* (2020), A.Y. Ofori and D. Akoto (2020)

The systematisation of the procedural features of handling digital evidence presented in Table 1 reflects the multidimensional nature of forensic support for the investigation of cybercrime and highlights the need to develop specialised forensic techniques. Establishing the relationship between the technological specifics of unlawful acts and the relevant procedural mechanisms for ensuring the admissibility of evidence is of fundamental importance, which has a direct impact on the effectiveness of pre-trial investigation and court proceedings in this category. The practical significance of such systematisation is confirmed by successful investigations, particularly the case of the Apple engineer in 2022, where digital forensics revealed the unauthorised copying of confidential files of a self-driving car project (ERMProtect Staff, n.d.). The importance of an integrated approach to collecting and analysing digital evidence is demonstrated by the 4 million USD Miami cryptocurrency fraud case in 2022, where a combination of analysing forged documents and tracking cryptocurrency movements led to the successful disclosure of the crime. Additional evidence of the effectiveness of a systematic approach is the Waifu hacker case of 2025, where the use of a set of digital forensics methods, including the analysis of IP addresses and darknet activity, uncovered large-scale interference with the systems of 165 companies (How digital forensics…, 2025). Such examples highlight the need for continuous improvement of digital evidence collection and analysis techniques correlates with the evolution of cyber threats and technological advances.

The identification of key difficulties in proving each type of cyberattack creates a methodological basis for improving investigative tactics and developing relevant forensic recommendations and justifies the need to legislate a special procedure for handling electronic evidence. In Kazakhstan, the investigation of cybercrime is regulated by the Criminal Procedure Code of the Republic of Kazakhstan (2014). Pre-trial investigations are conducted by the internal affairs bodies, the National Security Committee and other competent authorities. The process includes several key investigative actions, including inspection of the scene, seizure of electronic media, traffic analysis, recovery of deleted data, expert research and other forensic measures. Proof of the authenticity of digital evidence and compliance with procedural rules are important. Since 2018, Kazakhstan has implemented the Electronic Criminal Proceedings system, which automates the investigation and trial processes, through the maintenance of case files in digital format. At the same time, special attention is paid to the issues of authorised access to confidential information, which is regulated by the provisions of the Criminal Procedure Code. Cybercrime investigations may also involve international cooperation when it comes to crimes that go beyond national jurisdiction. Kazakhstan is actively working to improve its legislative framework on

digital evidence and methods of investigating cybercrime, in the context of harmonisation with international standards.

The requirements for expert research, systematised by type of cyberattack, demonstrate the need to develop an interdisciplinary approach to the development of expert methodologies and training of relevant specialists, which should be reflected in departmental regulations and methodological recommendations. An important aspect is to define the specifics of digital evidence collection, which indicates the need to develop specialised software and hardware systems for recording and investigating traces of cybercrime, as well as the expediency of introducing unified standards for working with electronic evidence at the international level (Kobets, 2023). The collection of digital evidence in Kazakhstan is conducted based on the national legislation regulating the procedure for handling electronic evidence, its collection, storage and use in court. In 2023, a law was passed that prohibits the collection and processing of paper copies of identity documents, except in certain cases, which are aimed at strengthening the protection of personal data (Tokayev signs law…, 2023). In contrast to Kazakhstan, the European Union and the United States have more detailed standards and guidelines for the collection and processing of digital evidence. The EU has the General Data Protection Regulation, which establishes strict rules for the processing of personal data and provides measures to ensure its security. In the United States, the Association of Chiefs of Police has developed recommendations that emphasise the need to use forensically sound methods when collecting and analysing digital data (Sobirov, 2023). Thus, approaches to the collection of digital evidence in Kazakhstan, the EU and the US differ in the degree of detail and strictness of regulations, which indicates the need to develop unified international standards in this area.

Pre-trial investigations in the Republic of Kazakhstan are conducted based on the provisions of the Criminal Procedure Code of the Republic of Kazakhstan (2014) the provisions on inspection of the scene, seizure and search of computer equipment, computer and technical expertise and ensuring the preservation of confidential information. The seizure of hardware and electronic media is conducted following the general provisions of the Criminal Procedure Code of the Republic of Kazakhstan on evidence and investigative actions. The appointment of examinations covering the recovery of deleted files, detection of malware and determination of the exact time of the cyberattack is regulated by the rules on conducting forensic examinations.

Documentation of the seizure of digital media and their analysis is a substantial part of the investigation process (Nurbatyrova *et al.*, 2024). According to Article 221 of the Criminal Procedure Code of the Republic of Kazakhstan (2014), all items seized during investigative actions are subject to a thorough examination, after which they may be recognised as material evidence and attached to the case file. The legislation provides for the use of photo and video recording in the process of seizing digital equipment, which allows for avoiding doubts about the integrity of evidence. The seizure procedure involves recording the device's identification data, including serial numbers and hash amounts of the seized media, which guarantees their integrity and authenticity. According to Article 126 of the Criminal Procedure Code of the Republic of Kazakhstan, special scientific and technical means are used to collect digital evidence, including forensic software for analysing hard drives, mobile devices and server logs. The algorithm of digital evidence seizure includes several mandatory steps:

1. Preliminary inspection of devices and creation of digital copies without changing the contents of the media.
2. Verification of data integrity using hashing.
3. Documentation of the seizure process with an indication of time, place and persons involved in the procedure.
4. Further examination to analyse the contents of the device.

The seized equipment must be packed, sealed and transferred to a specially designated storage facility controlled by the pre-trial investigation authorities. When investigating cross-border cybercrime, the competent authorities of Kazakhstan actively cooperate with international organisations, such as INTERPOL (2022), and OSCE, and exchange information through international legal assistance mechanisms (Concluding event of…, 2024). This makes it possible to detect attackers' IP addresses, identify botnet control servers, and identify sources of attacks located outside Kazakhstan. At the same time, such investigations are complicated by differences in national legislation and personal data protection issues, which require careful adherence to international standards of evidence.

Prevention of cybercrime within the framework of the Resolution of the Government of the Republic of Kazakhstan No. 407 (2017) concept involves not only improving criminal procedure and operational and investigative measures but also developing partnerships between the public and private sectors. Through cooperation with telecom operators and software developers, law enforcement agencies can quickly detect abnormal traffic patterns, and new types of malware and block attacks at the initial stage. A significant contribution to prevention is made by cyber-attack response centres (CERTs), which monitor network activity, issue technical recommendations and coordinate actions to neutralise large-scale attacks (KZ-CERT, n.d.). CERT conducts regular training to raise awareness of the dangers of phishing, social engineering and unauthorised intrusions among civil servants, corporate users and public sector representatives. For example, the Defence Information Systems Agency (DISA) offers an interactive course, Phishing and Social Engineering: Virtual Communication Awareness Training DS-IA103.06 (n.d.), which explains different types of social engineering attacks, including phishing, spear phishing, whaling, smishing, and vishing (Department of Defence..., n.d.). Additionally, the Centre for Security Development (CDSE) offers a similar course that teaches users how to recognise the signs of social engineering attempts and offers recommendations on how to avoid such attacks and their consequences (Defence Counterintelligence..., n.d.).

Statistics from KZ-CERT (n.d.) show a significant increase in the number of detected cyber incidents: in 2024, the number of cases of computer viruses, network worms and trojans more than doubled compared to 2023 (from 21,940 to 45,027 cases), which underscores the importance of strengthening interagency cooperation and improving automated intrusion detection systems. Statistical analysis of the effectiveness of pre-trial investigations of cybercrime provides important data for assessing the effectiveness of the law enforcement system in combating this type of crime. In Kazakhstan, only a small proportion of criminal cases related to cybercrime go to trial. According to the Committee for

Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan, in 2022, out of 142 criminal cases in progress, only 8 were brought to court, which is about 5.6%. In the first half of 2023, out of 106 pending cases, only 3 were sent to court, i.e., 2.8%. The main reasons for the termination of investigations are the expiry of the statute of limitations, insufficient evidence or the absence of suspects. In addition, in 2022, the number of losses from cybercrime was 58 million tenge, of which 27.6 million was the state's loss and 30.4 million was the loss to individuals. However, only the funds stolen from the state budget were recovered (Only 5% of…, 2023). In the future, an important task remains to develop a comprehensive early warning system and integrate existing security programmes into a single platform. Currently, Kazakhstan has a National Computer Emergency Response Team (KZ-CERT, n.d.) that detects and responds to incidents in the public sector and among users of national information systems and the Internet segment. In the financial sector, there is the Centre for Information Exchange and Analysis of Cyber Threats (KZ-FinCERT, n.d.), which operates under the auspices of the Agency for Regulation and Development of the Financial Market of the Republic of Kazakhstan and specialises in protecting the national financial institutions.

An analysis of the reasons for the low effectiveness of cybercrime investigations also points to the need to study the institutional factors that affect the effectiveness of the law enforcement system. According to official data, in 2023, about 1,500 corruption offences were registered, involving more than 1,100 people, including 158 managers of various levels (Zhumagali, 2024). Such indicators demonstrate the systemic nature of corruption in government agencies, which directly affects the objectivity of the investigation and consideration of criminal cases of cybercrime. To counteract this phenomenon, the Anti-Corruption Agency has developed a draft law "On Testing for Professional Integrity", which aims to identify corruption risks in the behaviour of law enforcement officers and to form an anti-corruption culture in their environment (A way to…, 2024). However, despite the measures taken, corruption in pre-trial investigation bodies continues to lead to procedural violations and delays in the investigation, which negatively affects the quality and effectiveness of criminal proceedings in cybercrime cases.

It is also necessary to expand the professional training of investigators, prosecutors and judges in the field of IT crime. In line with the strategic approach of the European Union Agency for the Training of Law Enforcement Officers (CEPOL), such specialists should regularly undergo advanced training by participating in international training programmes and exchanging experience. As part of cooperation with CEPOL, joint training and seminars are organised, where specialists from Kazakhstan learn the best practices of investigating cybercrime from their European colleagues (CEPOL Knowledge Centres, n.d.). An important element is also the development of the procedural framework. In Kazakhstan, procedural actions concerning cybercrime are regulated by special provisions of the Criminal Procedure Code of the Republic of Kazakhstan (2014), which establish the procedure for collecting and recording digital evidence, conducting computer-technical examinations and applying special investigative actions in the digital environment. This multidimensional approach is crucial for ensuring social security and economic stability in the digital age when cyberattacks are increasingly becoming a tool not only for criminals but also for politically motivated actions.

Interdisciplinary issues and legal framework in the context of social security and economic stability. Cyberattacks have become so widespread and diverse that their impact extends far beyond the purely criminal law sphere to include the economic, social and even political dimensions. From the perspective of economic stability, the consequences of successful cyberattacks are particularly noticeable in the financial, energy and telecommunications sectors, which form the basis of the modern digital economy. According to a study, in 2023, more than 223 million cyberattack attempts were recorded in Kazakhstan, most of which originated from foreign hackers. The main targets were local executive bodies, government agencies, the quasi-public sector, telecommunications operators, and private companies. According to a report by Cybersecurity Ventures, global annual losses from cybercrime in 2023 amounted to USD 8 trillion and were projected to grow to USD 10.5 trillion in 2025 (Calif, 2023). This growth is driven by the active implementation of the Internet of Things, the development of cloud technologies and the digitalisation of business processes.

In the context of the Republic of Kazakhstan, financial losses can be particularly significant for small and medium-sized businesses that do not always have a sufficient level of cyber defence. According to the report of the National Bank of the Republic of Kazakhstan, in the first half of 2024, a significant increase in cases of fraud aimed at Internet banking was recorded (New types of fraud…, 2024). According to the Committee for Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan, in January-July 2024, the number of established losses from Internet fraud amounted to KZT 7.1 billion, of which KZT 6.8 billion was incurred by individuals and KZT 304.1 million by legal entities (Damage from internet…, n.d.). In addition, the Anti-Fraud Centre of the National Bank registered 17,802 incidents in six months of operation, which resulted in the timely blocking of approximately KZT 1.5 billion. Of this amount, KZT 1.1 billion was blocked by the sending bank, and KZT 343.4 million by the receiving bank. Voluntarily, KZT 88.9 million was returned to the victims (Anti-Fraud Center…, 2025). In the energy sector, 49.1% of computers in automated control systems were attacked by malware in 2023, which is higher than the global average of 39% (Where is the rise…, 2023). In addition, Kazakhtelecom recorded a massive DDoS attack on several information resources from abroad, which caused significant disruptions in their operation (Kazakhtelecom announced DDoS…, 2022). Such incidents had not only economic but also social consequences, as power outages directly affected the welfare of the population and caused public discontent.

In turn, the social aspect of cyberattacks is directly related to public trust in public and private digital platforms. In the event of a successful intrusion into databases containing the personal or financial information of citizens, there is a risk of a large-scale leak of confidential information. According to the State Technical Service of Kazakhstan, in 2023, more than 223 million cyberattack attempts were recorded from abroad, with 62% of them targeting the public sector (Over 223 million…, 2024). According to the survey, the financial losses of Kazakhstani companies as a result of cyberattacks were distributed as follows: 42% of organisations reported losses of less than 800 thousand tenges, 10% of

companies suffered losses from 800 thousand to 2.4 million tenges, and 5% of enterprises faced losses exceeding 8 million tenges (Ishekenova, 2023). With the development of electronic services, cybersecurity and personal data protection issues are becoming increasingly relevant.

Global trends indicate an increase in the number of cyberattacks and data breaches worldwide. For example, in 2023, several high-profile data breaches were reported, highlighting the importance of strengthening security measures (Cybersecurity predictions for…, 2023). Kazakhstan has also seen an increase in cyberattacks on independent media, which is causing concern in society and reducing trust in government institutions. In 2023, Adil Soz recorded 56 cases of cyberattacks on media outlets and journalists, which is significantly higher than the previous year. The affected publications include KazTAG and Nege.kz, Kursiv.Media and inbusiness.kz. These attacks led to the temporary unavailability of the websites and slowed down their work. In response, the Committee to Protect Journalists (CPJ) called on the Kazakh authorities to conduct a thorough investigation and bring those responsible to justice (CPJ urges Kazakh..., 2024). In this regard, governments and organisations in various countries, including Kazakhstan, prioritise the protection of personal data and increasing public trust in electronic public services.

The lack of information on specific incidents in Kazakhstan may indicate the effectiveness of security measures or a lack of transparency in reporting such incidents. The level of transparency often correlates with a country's democracy. According to the Democracy Index, which assesses the state of democracy in 165 countries in five categories: electoral process and pluralism, government functioning, political participation, political culture and civil liberties, Kazakhstan has a score of 3.08, which places it among authoritarian regimes (Our World in Data, 2023). Cyberattacks are often accompanied by the spread of disinformation or malicious fakes, which can exacerbate social tensions and provoke mass unrest, especially when attackers pursue political or ideological goals. According to a report by the International Monetary Fund & Monetary and Capital Markets Department (2024), such actions can destabilise society and undermine trust in state institutions.

Given the critical impact of cyberattacks on the economy and social stability, legal regulation of cybersecurity in Kazakhstan is of great importance. There are gaps in law enforcement practice due to the lack of detailed rules on the liability of critical facilities operators for inadequate cyber security, as well as an insufficient mechanism for monitoring and auditing their activities. The legal framework includes the Law of the Republic of Kazakhstan No. 418-V (2015), which sets out basic requirements for operators and liability for violations in this area. Regulation of the European Parliament and of the Council No. 2016/679 "On the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)" (2016) introduced the obligation of owners of critical information and communications infrastructure to create domestic operational information security centres or engage relevant services, ensuring their interaction with the National Coordination Centre. The procedure for mandatory monitoring and auditing of these facilities is regulated by the Order of the Minister of Digital Development, Innovation and Aerospace Industry of the Republic of Kazakhstan No. 175/HK "On Determining the Amount of Payment for Services of State Registration of Civil Status Acts" (2023). However, there are gaps in law enforcement practice due to the lack of detailed regulations on the liability of critical facilities operators for inadequate cyber security, as well as an insufficient mechanism for monitoring and auditing their activities. In particular, the Report on the implementation of the Strategic Plan of the Ministry of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan for 2020-2024 (2021) notes the need to improve the system of control over information security by critical infrastructure operators. In addition, in the context of public-private partnerships, which should be one of the priority areas, there are no specific legal requirements for the mandatory exchange of information on vulnerabilities and cyberattacks between private businesses and law enforcement agencies. International practice shows that without clear requirements for reporting cyber incidents and without adequate guarantees of confidentiality of information, companies are reluctant to disclose attacks to avoid reputational losses, which generally complicates the response to threats.

Given the interdisciplinary nature of the problem, the state seeks to harmonise national legislation with international standards, with the provisions of the Convention on Cybercrime (2001) and other multilateral agreements that simplify the procedures for extradition of cybercriminals, joint investigation of complex attacks and exchange of electronic evidence. However, further improvement of the legal framework requires the development of new specialised regulations aimed at detailing the rules of operation of a single cyber defence coordination centre. Such a centre could unite the efforts of relevant ministries (Ministry of Internal Affairs (MoIA)), National Security Committee (NSC), Ministry of Digital Development, Innovation and Aerospace Industry (MinDigit), Ministry of Defence (MoD)) and response centres (CERT), and establish a transparent procedure for information exchange and rapid decision-making in crises.

It is advisable to introduce economic incentives for critical systems operators to invest in cybersecurity, for example, through tax breaks or grant programmes for equipment upgrades. Similar mechanisms are successfully operating in the UK, Germany, and France, where the private sector is involved in the protection of critical infrastructure through a system of public-private partnerships and economic incentives, as well as in the US, which has a developed system of partnerships between federal agencies and private companies in the field of cybersecurity (Llazo *et al.*, 2024). In particular, the U.S. Department of Homeland Security (DHS) has established the Critical Infrastructure Partnership Advisory Council (CIPAC) (n.d.) to facilitate interaction between government agencies and representatives of the critical infrastructure owner and operator community. This partnership aims to improve the security and resilience of the country's critical infrastructure through effective information sharing and coordinated efforts.

In addition to improving legislation, the issue of training and retraining deserves special attention. About 70% of successful large-scale attacks in Ukraine, Russia and other CIS countries were caused by the human factor: insufficient staff qualifications, system configuration errors, and lack of regular software updates (Vuković & Štefanac, 2023). According to a study by Datami Newsroom (2024), human factors and

system failures account for 52% of data security breaches. Therefore, the development of curricula in universities and colleges, practical training and professional certifications should be a priority for government policy.

Equally important is public outreach to ensure that ordinary users understand the risks of phishing, account hacking and other types of fraud and follow basic digital hygiene principles. Without awareness of the general dangers associated with cyberattacks, even the most advanced legislation will remain ineffective. In addition, global practice shows that one of the most effective ways to encourage businesses to openly report vulnerabilities is to introduce so-called "bug bounty" programmes that reward researchers and cybersecurity experts for identifying and reporting system flaws. For instance, in 2023, several new programmes were launched, such as those by ATG and Bybit, which offer rewards of up to 4,000 USD and 20,000 USD, respectively, for vulnerabilities discovered (Leyden, 2023). At the legislative level, it is advisable to establish a secure legal status for white hat hackers who act in good faith to avoid confusion with criminal prosecution. In Germany, it is planned to decriminalise the activities of ethical hackers, which will reduce legal risks for cybersecurity researchers (Naprys, 2024).

Summing up the above arguments, it should be emphasised that effective counteraction to cyberattacks requires the integration of economic, social and legal instruments. The losses for business and the state can be catastrophic, and the social consequences can be even more profound if an attack undermines trust in state institutions or creates conditions for social instability. The current legislation, including the Law of the Republic of Kazakhstan No. 418-V (2015), the Resolution of the Government of the Republic of Kazakhstan No. 407 (2017) and relevant bylaws forms the basic framework for the protection of digital infrastructure, but the pace of technological development requires further adaptation of these norms.

Gaps in the regulation of critical facilities, insufficient motivation of the private sector to transparently report incidents, and a shortage of highly qualified specialists remain key challenges that require comprehensive measures by the state. Over the past two years, the demand for such specialists in the republic has doubled, but the supply has not kept pace with the growing needs. Depending on experience and company, the salary offered can reach KZT 1.5 million. Despite this, there is a substantial shortage of personnel in this area (Cybersecurity threats to Kazakhstan, 2024). The development of centralised mechanisms for interagency cooperation, legislative support for public-private partnerships, active involvement of the expert community in the development of security standards and audits and raising the public's awareness of digital risks can become effective components of a system designed to ensure an adequate level of social security and economic stability. As a result, the Republic of Kazakhstan will have the opportunity to create a sustainable digital ecosystem where cyber threats are minimised, and society and businesses benefit from the safe and reliable use of modern technologies.

Discussion

The results of the study on countering cyberattacks in the Republic of Kazakhstan reveal critical trends and systemic problems in the field of cybersecurity, which are important both for understanding the current situation and for developing effective mechanisms to counter cyber threats. The recorded increase in the number of malware incidents by 105% in 2024 (from 21,940 to 45,027 cases) is fully consistent with the findings of Y. Li and Q. Liu (2021), who identified an exponential increase in cyber threats and their direct impact on the national security of states. However, unlike their study, which focused mainly on the technological aspects of cybersecurity, the analysis revealed the critical importance of the human factor and the need for an integrated approach to ensuring the protection of information systems. This is supported by statistics that show that about 70% of successful attacks are due to insufficient staff qualifications and system configuration errors.

The fact that 62% of cyberattacks are directed at the public sector is consistent with the findings of M. Lehto (2022), who identified critical infrastructure as a priority target of cyberattacks. Particularly important is the observation that physical infrastructure can be damaged by penetrating digital control systems, which is supported by documented cases of successful attacks on the energy sector in Kazakhstan. According to the data, in 2022, the share of attacks on the energy sector increased from 28% to 32% (Galushko, 2022). At the same time, in contrast to M. Lehto (2022) optimistic forecasts about the possibility of rapidly improving security systems, the study revealed significant institutional and technological limitations that impede a rapid response to new types of threats. This observation is reinforced by the findings of A. Djenna *et al.* (2021), who emphasises the need for in-depth mapping of cyber threats before implementing protective measures.

The analysis of the financial consequences of cyberattacks, the recorded losses of the banking sector in the amount of KZT 1.5 billion in the second half of 2024, is of particular importance in the context of the study by J. Hiller *et al.* (2024). Their proposal for the introduction of a federal tax credit in the United States to stimulate investment in cybersecurity is noteworthy, but the study's findings indicate the need for a more differentiated approach in Kazakhstan, especially to support small and medium-sized businesses. This thesis is supported by the data on disproportionately high losses in this sector and the limited capacity of small businesses to implement comprehensive security systems.

A particularly important aspect of the study is the analysis of the role of the human factor in the cybersecurity system. The high percentage of successful attacks related to the human factor confirms the findings of E. Kadena and M. Gupi (2021) on the critical importance of behavioural aspects in cybersecurity. However, in contrast to their focus on psychological factors, this study demonstrates the need for a comprehensive approach that includes both behavioural and technical aspects of staff training. This observation is complemented by the findings of A. Kuek and S. Hakkennes (2020), who found that approximately one-fifth of employee's experience anxiety when working with information systems. In contrast to their recommendation for general digital literacy training, the study's findings highlight the need for specialised cybersecurity training programmes tailored to specific professional contexts.

The results of the study on the growing complexity of cyberattacks and the use of AI are confirmed by S. Lysenko *et al.* (2024) and I. Naseer (2024), who emphasise the critical role of AI in modern cyber defence systems. However, while their studies demonstrate optimistic forecasts

for the rapid adoption of AI defence systems, the analysis reveals significant limitations and challenges in the context of Kazakhstan, especially in the public sector. These limitations are not only related to technological capabilities but also to institutional and regulatory barriers. S. Zeadally *et al.* (2020) also emphasise the need to develop new AI methods to counter cyber threats, but their conclusions on the possibility of rapid adaptation of traditional security systems do not find confirmation in Kazakhstan, where the process of introducing new technologies faces several organisational and resource constraints.

The gaps in the public-private partnership system identified in the study are largely in line with the observations of Y.E. Tabrez (2020), and T. Walshe and A. Simpson (2020), who emphasise the importance of innovative mechanisms for technological development. However, their proposals for a system of prizes and grants appear to be insufficient in the context of the identified systemic problems in protecting Kazakhstan's critical infrastructure. The results of the study highlight the need for a deeper institutional transformation and the creation of effective mechanisms for coordination between the public and private sectors. This is supported by documented cases where the lack of proper coordination led to delays in responding to cyber incidents and increased the scale of damage.

The social consequences of cyberattacks are particularly noteworthy, correlating with the findings of R. Shandler and M.A. Gomez (2023). Their observation that fear has a greater impact on reducing trust in government institutions than anger is confirmed in the analysis of public reaction to large-scale cyberattacks in Kazakhstan. In particular, the results of the study show that after cybersecurity incidents, citizens demonstrate an increased level of caution in using state electronic services and express doubts about the ability of state authorities to protect their data. However, in contrast to the findings of R. Shandler and M.A. Gomez (2023) regarding the long-term persistence of negative social consequences, our study demonstrates that public trust can be restored through transparent communication and effective incident response.

A significant aspect of the study is the analysis of the use of AI technologies in cyberattacks. M.M. Yamin *et al.* (2021) warn of the growing threat of "armed AI", and this is confirmed by the detected cases of automated systems being used to conduct attacks. However, in contrast to their predictions of a rapid development of this trend, the study shows a more gradual introduction of AI in cyberattacks in the region, which may be due to technological and resource limitations of local cybercriminal groups.

The issue of digital literacy, studied in the context of cybersecurity, is theoretically substantiated by D. Cetindamar *et al.* (2021), who analysed digital literacy as a fundamental prerequisite for the effective use of technology. In contrast to their general approach to digital literacy, the current study determined that the problem of insufficient technical skills is a critical factor in Kazakhstan's cybersecurity, as evidenced by the high percentage of successful attacks related to human error and system configuration errors.

Conclusions by K. Mitsarakis (2023) on the growing influence of geopolitical factors on cybersecurity are fully confirmed by the results of the study, which demonstrate a significant increase in the number of politically motivated cyberattacks on Kazakhstan's critical infrastructure. However, in contrast to its optimistic assessment of the effectiveness of international mechanisms for countering cyber threats, the study found limited effectiveness of such mechanisms in the regional context, which points to the need to develop more adapted approaches to international cooperation.

Following S. Zeadally *et al.* (2020), the study results not only confirm global trends in cybersecurity but also identify specific features and challenges that are characteristic of Kazakhstan and the region. This creates the basis for developing more effective mechanisms to counter cyber threats, addressing the local context, available resources and institutional constraints. Particularly, the relationship between technological, organisational and human factors in ensuring cybersecurity, which requires a comprehensive approach to the development and implementation of protective mechanisms.

Conclusions

The results of the study demonstrate the rapid growth of technological complexity and the systemic nature of cyber threats in the Republic of Kazakhstan. In 2024, the number of malware-related incidents increased by 105% compared to the previous period, reaching 4,507 cases. Targeted attacks on critical infrastructure and the public sector pose a particular danger, as evidenced by the State Technical Service's statistics: more than 223 million cyberattack attempts from abroad in 2023, of which 62% were aimed at government agencies. Financial losses demonstrate the significant negative impact of cyberattacks on economic stability: in the banking sector alone, losses of KZT 1.5 billion were recorded in the second half of 2024, with the small and medium-sized business segment being the most vulnerable.

Significant gaps in the cyber defence system have been identified, including the lack of clear mechanisms for interagency coordination and insufficient regulation of public-private partnerships in the field of cybersecurity. The analysis of law enforcement practice has shown that the existing legal framework does not fully meet the current challenges, especially in terms of regulating the liability of critical infrastructure operators and mechanisms for prompt response to cyber incidents. The study determined that the lack of unified security standards and audit procedures significantly complicates the process of assessing the vulnerabilities of information systems. The human factor remains an important factor in the success of cyberattacks approximately 70% of successful interventions are due to insufficient staff qualifications and system configuration errors. DDoS and phishing attacks pose a particular danger, as they can not only paralyse critical facilities but also undermine public confidence in digital services.

The study established the need to create a single cyber defence coordination centre that would combine the efforts of relevant ministries, law enforcement agencies and cyber incident response centres. The study proposed a model of such a centre with a clear division of powers and mechanisms for rapid response to incidents. The effectiveness of economic mechanisms to stimulate investment in cybersecurity through a system of tax incentives and grant programmes is proven. The positive impact of "bug bounty" programmes on identifying vulnerabilities in information systems is revealed, which is confirmed by the international experience of leading technology companies.

Promising areas for further research include studying the impact of AI technologies on the evolution of cyberattack methods, developing a methodology for assessing the

effectiveness of public-private partnership mechanisms in the field of cybersecurity, and researching the legal and technical aspects of international cooperation in combating cross-border cybercrime, especially in the context of crypto-currencies and decentralised financial systems.

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Conflict of interest

None.

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Протидія кібератакам в Республіці Казахстан: міждисциплінарні питання та правові рамки в контексті соціальної безпеки та економічної стабільності

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Анотація. Метою дослідження була розробка теоретико-методологічних засад та практичних рекомендацій щодо вдосконалення системи протидії кібератакам, які охоплюють правові, технічні та організаційні механізми забезпечення кібербезпеки. Дослідження ґрунтувалося на комплексному міждисциплінарному підході з використанням методів системного аналізу, формально-юридичного, порівняльно-правового та описової статистики. Аналіз статистичних даних за 2020-2024 роки виявив стрімке зростання кількості та складності кібератак. У 2024 році було зафіксовано 4,507 випадків використання шкідливого програмного забезпечення, що більш ніж удвічі більше, ніж у попередньому році. Дослідження підтвердило, що найбільш вразливим виявився сегмент малого та середнього бізнесу: лише в банківському секторі у другій половині 2024 року збитки від кібератак склали 1,5 мільярда тенге, причому 35% атак було здійснено з використанням методів соціальної інженерії. Аналіз структури кібератак показав, що 62% від загальної кількості кібератак були спрямовані на державний сектор, з яких 28% – на об'єкти критичної інфраструктури. Дослідження визначило, що близько 70% успішних втручань пов'язані з людським фактором – недостатньою кваліфікацією персоналу та помилками в конфігурації системи. Виявлено суттєві прогалини в системі кіберзахисту Казахстану: відсутність ефективних механізмів міжвідомчої координації, недостатнє регулювання державно-приватного партнерства та неефективність існуючої нормативно-правової бази щодо регулювання відповідальності операторів критичної інфраструктури. Обґрунтовано необхідність створення єдиного координаційного центру кіберзахисту, який об'єднає зусилля державної системи моніторингу KZ-CERT і галузевої системи FinCERT, а також запропоновано економічні механізми стимулювання інвестицій у кібербезпеку через систему податкових пільг і грантові програми. Проаналізовано особливості процесу розслідування кіберзлочинів, зокрема процедури відеофіксації вилучення обладнання та специфіку процесуального оформлення доказів. За даними Генеральної прокуратури Республіки Казахстан, у 2023 році до суду було направлено 476 кримінальних справ про кіберзлочини, з яких 312 закінчилися обвинувальними вироками. Результатами дослідження стало комплексне розуміння взаємозв'язку між правовими, технічними та соціально-економічними аспектами кібербезпеки та довели необхідність системної взаємодії всіх зацікавлених сторін у протидії кіберзагрозам

Ключові слова: інформаційні системи; цифрові докази; шкідливе програмне забезпечення; критична інфраструктура; державно-приватне партнерство

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Irregular migration in Kazakhstan: Challenges, consequences, and approaches to improving state regulation

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Abstract. The purpose of the study was to identify key problems and institutional challenges related to illegal migration in the Republic of Kazakhstan, and to analyse approaches to improving the state regulation of migration processes in the context of ensuring national security. The methodological basis of the study were: systematic approach, structural and functional method used to study the institutional architecture of the state regulation of migration processes; the comparative legal method allowed comparing national legislation with international standards in the field of migrants' rights protection. The study identified significant gaps in legislative regulation, including the lack of clear mechanisms for detecting illegal migrants, insufficient rules on employer liability, and limited opportunities for legalising migrants' status. Systemic shortcomings in coordination between different state bodies have been identified, which reduces the effectiveness of control over migration flows. The analysis demonstrated the lack of a comprehensive approach to the social integration of migrants and the insufficient development of infrastructure for their adaptation, especially in border regions. On the basis of the study, it was developed comprehensive recommendations for improving migration policy, including the need to ratify International Labour Organisation Convention No. 143, strengthening institutional coordination between migration services, introducing legalisation programmes for certain

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categories of labour migrants and creating effective mechanisms for social integration. The authors proposed to create a single digital platform for recording and monitoring migration processes, as well as to introduce specialised training and adaptation programmes for migrants. The author substantiated the need to develop a differentiated approach to migration regulation, depending on regional specifics and labour market needs. Implementation of the proposed measures will reduce the risks associated with illegal migration and ensure stable development of the country's regions

Keywords: labour resources; legal protection; social integration; regional development; shadow employment; migration control

Introduction

Managing irregular migration has become a critical challenge for Kazakhstan in 2024, especially as the country has transformed into an important regional migration hub. Geopolitical tensions in the region, including Russia's ongoing military actions in Ukraine, have significantly altered traditional migration routes and created new migration corridors through Central Asia. Kazakhstan's strategic geographical location, relative economic stability and visa-free regimes with many countries have turned it into a key destination for various forms of migration, including irregular movements. The growing complexity of migration processes and their impact on the country's socio-economic development require a rethinking of existing approaches to migration regulation and the development of more effective mechanisms for managing migration flows. Of particular relevance is the need to balance the security interests of the state with humanitarian aspects and the protection of migrants' rights.

Academic literature reveals a multidimensional picture of migration challenges and regulatory responses in Kazakhstan. R. Hausmann *et al*. (2023) conducted a fundamental analysis of economic development and migration processes in Kazakhstan, finding that the country has become one of the largest recipients of migrants in the Central Asian region. The authors emphasise that the preconditions for large-scale migration are economic stability, growing labour needs and the country's relatively successful development. The researchers pay special attention to the need to improve migration policy and regulatory mechanisms to effectively manage migration flows, including the fight against irregular migration. L. Delovarova (2024) conducted a comprehensive study of the external vector of Kazakhstan's migration policy in the post-pandemic period, focusing on the country's growing role in migration processes in Central Asia and the Commonwealth of Independent States. The researcher found that Kazakhstan's migration policy is developing progressively and steadily, showing a tendency to diversify in line with international realities, which is reflected in the new Migration Policy Concept for 2023-2027 (2022), which introduces innovative approaches to attract foreign investment and highly qualified specialists.

J. Matusiewicz (2024) presents an in-depth analysis of the transformation of migration realities in Central Asia, highlighting the special role of Kazakhstan as a new labour migration centre. The researcher examines in detail the changes in migration flows after Russia's invasion of Ukraine and emphasises the need to develop a modern and transparent labour migration permit system. The author also highlights the importance of international cooperation to expand seasonal labour migration schemes. A. Oshchepkov *et al.* (2024) identified two key trends in migration processes since the outbreak of the war in Ukraine: a significant increase in high-skilled migration from Russia to Central Asian countries (around 240,000 people to Kyrgyzstan, Kazakhstan, and Uzbekistan) and an unexpected 40% increase in labour migration from Central Asia to Russia in 2021. Economic consequences include a record increase in remittances to countries in the region, especially Tajikistan (51% of Gross domestic product (GDP)) and Uzbekistan (21% of GDP), although this is more related to capital outflows from Russia. The authors emphasise the need to develop comprehensive policy measures to effectively harness the potential of highly skilled migration. A.A. Altynbek and Z.K. Karimova (2024) made a significant contribution to understanding the complexity of migration flows between China and Kazakhstan, focusing on macro-level migration theories and methods of collecting data on irregular migration. The study found that the majority of migrants from China to Kazakhstan are ethnic Kazakh repatriates and small business labour migrants. The authors concluded that despite the economic benefits of Chinese investment, the growth of irregular migration poses risks to Kazakhstan's labour market, which requires a comprehensive approach to managing migration processes. L.N. Abdrazakova (2022) studied long-term migration processes in the EU, Turkey and Kazakhstan, paying particular attention to the interaction between foreign policy elites on migration agreements and the new phenomenon of migration flows of Russians and Ukrainians. The researcher points out the need for international policy coordination to address migration-related issues.

The security aspects and mechanisms of regulating irregular migration have been thoroughly studied by a number of scholars. A. Khamzin *et al.* (2023) conducted a comprehensive analysis of the situation with human trafficking in Kazakhstan, identifying gaps in the legal and law enforcement aspects. The researchers offered comprehensive proposals for strengthening the protection of the rights of victims of human trafficking and emphasised the need to introduce special anti-trafficking legislation. D.K. Aldabergenov *et al.* (2024) conducted a comprehensive analysis of Kazakhstan's migration policy, identifying three key stages of its development: the first (1991-2000) was characterised by the deterioration of the socio-economic situation after the collapse of the Union of Soviet Socialist Republics, the second (2001-2010) by economic growth and dynamic reforms, and the third (2011-2022) by the impact of globalisation and external factors. The authors found that in order to effectively manage migration, a number of measures need to be implemented, including the expansion of educational infrastructure, the formation of an ecosystem of knowledge centres, visa support for in-demand professions, and the regulation of ethnic migration. The researchers paid special attention to the importance of a balanced approach to internal migration to ensure the even development of all regions of the country.

Y. Dandurand and J. Jahn (2020) critically analyse the limitations of the existing international legal framework for combating human trafficking and illegal migration. The

authors argue that the legal distinction between migrant smuggling and human trafficking has proved inadequate as a basis for international cooperation. They also emphasise the need to rethink the concepts of irregular migration and develop human rights-based approaches. An important contribution to understanding the mechanisms of regulating irregular migration is the study by F.X. Priyono and A.P. Sudiro (2020), which, although focused on the region of Indonesia and Malaysia, provided valuable insights into the importance of establishing specialised judicial institutions and developing international cooperation in addressing irregular migration. Their experience can be useful for improving Kazakhstan's regulatory system. In general, the researchers have created a comprehensive understanding of the transformation of migration processes in Central Asia, including the role of Kazakhstan as a new regional migration hub, and proposed different approaches to migration regulation. However, there is still a lack of systematic analysis of the interrelationships between different aspects of migration and their impact on the country's socio-economic development in the new geopolitical environment.

The purpose of the study was to reveal the peculiarities and problems of illegal migration in the Republic of Kazakhstan, to determine its impact on the socio-economic development of the country and to provide a legal analysis of the existing legislation in the field of state regulation of migration processes. The objectives of the study were:

1) to study the institutional and legal support of migration processes in Kazakhstan, identify gaps in the legislation and identify areas for its improvement to combat illegal migration;

2) to establish the relationship between irregular migration and the shadow economy of Kazakhstan, to determine the impact of irregular labour migration on the economic development and social stability of the country;

3) to reveal the socio-economic problems of irregular migrants and their impact on the regional development of Kazakhstan, to propose ways to improve the state migration policy.

Materials and methods

The methodological basis of the study was a comprehensive combination of general scientific and special methods of scientific knowledge. The conceptual basis of the study was formed by the theory of migration security, which considers irregular migration as a multidimensional phenomenon with systemic challenges for the socio-economic and political stability of the state. Within this theory, special attention was paid to the study of the relationship between migration processes and national security, which allowed the research to be structured around three key aspects: legal regulation, economic impact and social consequences of irregular migration. The theoretical and methodological toolkit also included an institutional approach that provided an analysis of the transformation of formal and informal institutions in the field of migration regulation, and the concept of social integration to study the processes of migrants' adaptation in the host society.

The systemic approach made it possible to consider irregular migration as a holistic phenomenon in the interconnection of its components. This method was used to analyse the interaction of various state institutions in the field of migration control and to identify systemic shortcomings in the coordination of their activities. The structural-functional method was used to study the institutional architecture of the state regulation of migration processes, in particular, when analysing the provisions of the Resolution of the Government of the Republic of Kazakhstan No. 961 "On Approval of the Concept of Migration Policy of the Republic of Kazakhstan for 2023-2027" (2022) and Resolution of the Government of the Republic of Kazakhstan No. 589 "On Approval of the Comprehensive Action Plan to Combat the Shadow Economy for 2023-2025" (2023). The use of this method was effective in determining the functional links between different elements of the migration control system and identifying institutional gaps in the mechanisms for combating illegal migration.

The statistical method was used for quantitative analysis of migration flows. It was used to process the data of the International Organisation for Migration (2021; 2023; 2024a; 2024b; 2024c) on the dynamics of border crossings, which showed an increase in migration flows from 7.5 million people in 2022 to 8.2 million in 2023. The statistics of the United Nations Population Division (2024) was also analysed, which allowed determining the structure of migration flows by country of origin: citizens of the Russian Federation (68%), Ukraine (9%), and Uzbekistan (7%). Additionally, the data of ReliefWeb (2024a; 2024b) on the dynamics of entries and exits in the first half of 2024 were processed, which showed an increase of 15-20% compared to the previous year. The comparative legal method was used to compare Kazakhstan's national legislation with international standards in the field of migrant protection (International Centre for…, 2024; United Nations Population…, 2024). It was used to compare the provisions of the laws and other legal acts with the requirements of Convention of the International Labour Organisation No. 143 "Migrant Workers (Supplementary Provisions) Convention" (1975).

The source base of the study is formed by official documents of three levels, which provided a comprehensive analysis of the problem of illegal migration in Kazakhstan. At the international level, the key sources were: regular reports of the International Organisation for Migration (2021; 2024a), which contain a detailed analysis of migration trends in Central Asia with a special focus on Kazakhstan; analytical materials of the International Centre for Migration Policy Development (2024), which cover regional aspects of migration processes. Of particular value for the study are the annual reports of United Nations Population Division (2024), which provide up-to-date statistical information on global migration trends and their impact on the socio-economic development of countries.

The national level of the source base is represented by a wide range of legal acts and policy documents of Kazakhstan. Of fundamental importance are: Law of the Republic of Kazakhstan No. 477-IV "On Migration of Population" (2011), which defines the basic principles of the state's migration policy; Criminal Code of the Republic of Kazakhstan (2014), which establishes responsibility for organising illegal migration; Resolution of the Government of the Republic of Kazakhstan No. 961 "On Approval of the Concept of Migration Policy of the Republic of Kazakhstan for 2023-2027" (2022); Resolution of the Government of the Republic of Kazakhstan No. 589 "On Approval of the Comprehensive Action Plan to Combat the Shadow Economy for 2023-2025" (2023). Resolution of the Government of the Republic of Kazakhstan No. 990 "On Approval of the State Programme for the Development of Regions for 2020-2025" (2019), and Law of the

Republic of Kazakhstan No. 216-IV "On Refugees" (2009), which reveal various aspects of state policy on migration regulation, were analysed.

The comparative analysis of national and international legislation was carried out by comparing the provisions of the main national legal acts of Kazakhstan with international standards. In particular, the author analyses the compliance of the provisions of Law of the Republic of Kazakhstan No. 477-IV "On Migration of Population" (2011) with the requirements of Convention of the International Labour Organisation No. 143 "Migrant Workers (Supplementary Provisions) Convention" (1975) concerning the Protection of the Rights of Labour Migrants and the Suppression of Illegal Migration. The article examines the implementation of the recommendations of international organisations (International Organisation for Migration, 2024b; United Nations Population…, 2024) in Resolution of the Government of the Republic of Kazakhstan No. 961 "On Approval of the Concept of Migration Policy of the Republic of Kazakhstan for 2023-2027" (2022) and the "Comprehensive Action Plan to Combat the Shadow Economy" (Government of the Republic of Kazakhstan, 2023). Particular attention was paid to the analysis of the provisions of Law of the Republic of Kazakhstan No. 216-IV "On Refugees" (2009) for compliance with international standards for the protection of the rights of refugees and asylum seekers, as defined in the analytical materials of the International Centre for Migration Policy Development (2024) study. This comprehensive approach allowed us to identify the main gaps in national legislation and suggest ways to improve it in line with international standards.

The departmental level of materials includes statistical data and analytical documents of the relevant ministries and agencies of Kazakhstan. In particular, the annual reports and operational statistics of the Ministry of Internal Affairs on detected violations of migration legislation (International Organisation for Migration, 2024c), analytical materials of the Ministry of Labour and Social Protection of the Population on the situation on the labour market and employment of foreign nationals were used (Zhakupova named the…, 2024). An important source of information was the data of the Border Guard Service of Kazakhstan on border crossings, which allowed us to track the dynamics and structure of migration flows.

Results

Illegal migration: Challenges and security threats. Illegal migration in the Republic of Kazakhstan is a multidimensional phenomenon that encompasses economic, social and political aspects and at the same time poses potential threats to national security. According to the International Organisation for Migration, more than 8.2 million people crossed the border of Kazakhstan in 2023 alone, compared to approximately 7.5 million in 2022 (International Organisation for Migration, 2024a). A significant proportion of newcomers remain in the country in violation of the terms of their legal status, forming a significant contingent of irregular migrants. In most cases, they are deprived of social protection guarantees and do not have access to formal legal mechanisms. This situation increases the risks of these people falling into criminal structures involved in human trafficking, illegal border smuggling or extortion for resolving issues with documents.

Kazakhstan's geopolitical position as a "bridge" between Asia and Europe makes it a significant transit country for global migration flows. According to ReliefWeb (2024a; 2024b), in the first half of 2024, the number of entries and exits increased by an average of 15-20% compared to the previous year. On the one hand, open borders and simplified crossing procedures are in line with the global trend of mobility and the principles of freedom of movement. At the same time, the scale of migration processes in Kazakhstan is the largest among all Central Asian countries. According to United Nations Population Division (2024), as of mid-2020, there were about 3.7 million international migrants in the country. An analysis of the structure of migration flows shows that the bulk of them are citizens of the Russian Federation (68% or 3.8 million people), Ukraine (9% or 515 thousand people) and Uzbekistan (7% or 380 thousand people). This concentration of international migrants creates additional challenges for the country's public administration and social infrastructure. On the other hand, it increases the challenges for the border control system and law enforcement agencies, which have to balance security with respect for fundamental human rights.

The transit aspect of migration remains equally relevant: Kazakhstan plays a key role in one of the most significant migration corridors in the world – Central Asia – Russian Federation. A detailed analysis of the legal framework reveals critical shortcomings in the regulation of transit migration. Firstly, Law of the Republic of Kazakhstan No. 477-IV "On Migration of Population" (2011) does not clearly define the concept of "transit migrant" and does not establish special procedures for their registration, which creates legal uncertainty in the exercise of migration control. Secondly, the existing regulations do not provide for an effective mechanism for verifying the stated purpose of entry and further tracking the actual route of movement of foreigners through the country. The lack of an automated data exchange system between the Border Guard Service and the Migration Police is particularly acute, making it difficult to identify individuals who violate the declared transit period. An additional challenge is the limited legal framework for readmission: as of 2024, Kazakhstan has concluded relevant agreements with only five states, while the main flows of irregular migration are directed to a much wider range of countries. The absence of comprehensive readmission agreements with the EU is particularly noticeable, which significantly reduces the effectiveness of countering illegal transit. According to the Ministry of Internal Affairs of the Russian Federation, as of 2020, this corridor covered approximately 6.6 million international migrants from Central Asia (International Organisation for Migration, 2021). At the same time, a number of irregular migrants consider Kazakhstan as an intermediate transit point on their way to the Russian Federation or the EU, avoiding official border crossing points, which creates additional challenges for the border control system. The transit nature of migration has become particularly pronounced since the start of Russia's full-scale invasion of Ukraine on 24 February 2022. Kazakhstan became one of the main destinations for Russian citizens leaving the country due to the hostilities and mobilisation. According to official data from the Ministry of International Affairs of Kazakhstan (International Organisation for Migration, 2024c), by the end of October 2022, about half a million Russian citizens had entered the country, a significant number of whom remained in the

country. This large-scale influx of migrants has put additional pressure on the housing market, social infrastructure and administrative services, especially in large cities.

The legal regulation of migration in Kazakhstan is based on Law of the Republic of Kazakhstan No. 477-IV "On Migration of Population" (2011), which defines the procedure for obtaining entry and employment permits by foreigners, as well as the competence of state bodies in the field of migration policy. However, an analysis of this Law shows that it focuses on mechanisms of legal employment and control over foreign workers, while it lacks a clear description of procedures for detecting illegal migrants and stricter rules on employers' liability for using unregistered labour. Criminal Code of the Republic of Kazakhstan (2014) (Article 394) provides for criminal liability for organising illegal migration, but the difficulty of proving "intent" and the lack of coordinated inspections covering all stages of shadow schemes complicate the practical application of this provision.

Additional migration policy guidelines are contained in Resolution of the Government of the Republic of Kazakhstan No. 961 "On Approval of the Concept of Migration Policy of the Republic of Kazakhstan for 2023-2027" (2022), which provides for reform of migration legislation and strengthening of cooperation with other states. The document focuses on the use of modern border control technologies (in particular, Smart Borders (European Commission, 2024)) and the development of bilateral readmission agreements. However, its provisions on social and legal protection of irregular migrants (or those in a vulnerable situation) are formulated in a rather general way and do not contain clear implementation mechanisms, including the level of funding and distribution of powers between different agencies.

The socio-economic conditions in the countries of origin of migrants, such as Uzbekistan, Tajikistan and Kyrgyzstan, contribute significantly to the formation of irregular migration flows to Kazakhstan. Economic crises, high unemployment, and limited access to quality education and healthcare force many to seek better living conditions abroad. In Tajikistan, for example, the lack of industrial enterprises and low wages means that most people depend on earnings outside the country, and climate change, such as droughts, is exacerbating the situation. Kazakhstan, with a more stable economy and better access to health and social services, is becoming an attractive destination, but the complexity of legalisation procedures often forces migrants to work illegally, increasing their vulnerability to exploitation (Babagaliyeva *et al.*, 2017). This demonstrates the need for regional cooperation to reduce socio-economic tensions in countries of origin and facilitate legal migration. According to the International Organisation for Migration (2024), approximately half of migrants who violate the migration regime do so to find work in construction, trade or agriculture, where informal employment is high. The lack of sufficient social guarantees and control by the state leads to increased marginalisation of these individuals and increases the risk of criminalisation. The available statistics demonstrate the scale of this problem: in the five border regions of Kazakhstan, every fourth case of bringing to administrative responsibility in 2023 was related to violations of migration legislation, while in 2021 this figure did not exceed 15% (Migration data in…, 2025). This indicates a rapid increase in the number of offences in the migration sphere and the need to strengthen control over compliance with migration legislation.

In addition, Kazakhstan has not yet ratified Convention of the International Labour Organisation No. 143 "Migrant Workers (Supplementary Provisions) Convention" (1975), which aims to set standards to ensure the rights of migrants in cases where they find themselves outside the legal framework. The absence of international commitments complicates the process of developing effective mechanisms for social protection and integration, which is especially noticeable in border areas where numerous people are in the "grey zone": without official registration and without access to basic social services.

Another government document that addresses the related topic of detecting illegal economic activity is Resolution of the Government of the Republic of Kazakhstan No. 589 "On Approval of the Comprehensive Action Plan to Combat the Shadow Economy for 2023-2025" (2023). As the shadow economy and illegal migration are often interrelated, the measures in this Plan may help to identify cases of exploitation of foreigners coming to Kazakhstan in search of work. However, the legal assessment of the document shows that the emphasis is mainly on tax aspects and the problem of access to legal aid for irregular migrants, as well as sanctions against employers who systematically violate the law, remains insufficiently detailed.

Overall, the risks associated with irregular migration go beyond domestic policy and have a regional and international dimension. According to analytical data from the International Centre for Migration Policy Development (2024), Kazakhstan has been experiencing increased migration pressure from Central and South Asian countries in recent years, which requires effective border control, an extensive monitoring system, and real human rights protection mechanisms at the national level. The lack of legal certainty for migrants may lead to further criminalisation of these individuals and increased interethnic tensions in border regions that already lack social infrastructure.

Thus, the problem of irregular migration in Kazakhstan is complex and requires a multi-stage response. Strengthening border control measures, coordinating the actions of various ministries and agencies, ratification of international labour and human rights conventions, and establishing readmission mechanisms are all part of a unified approach to ensuring the safety and protection of the rights of persons who find themselves outside the legal framework. As for the ratification of Convention of the International Labour Organisation No. 143 "Migrant Workers (Supplementary Provisions) Convention" (1975), it can significantly strengthen the protection of migrants' rights in Kazakhstan by integrating international labour and human rights standards into national legislation. It ensures equality of opportunity and non-discrimination of migrants in access to employment, working conditions, social protection and legal aid. In particular, it obliges the state to develop mechanisms to detect and combat forced labour and human trafficking, including the establishment of monitoring bodies, improvement of registration procedures for labour migrants and introduction of transparent mechanisms for obtaining work permits. In addition, the ratification helps to ensure access to legal protection, including the ability of migrants to challenge illegal actions of employers, and expands international cooperation in the field of readmission, joint monitoring of migration flows and information exchange. It creates the preconditions for the professional integration of migrants

through professional development and social adaptation programmes, which reduces the risks of social tension and facilitates the integration of migrants into the host society. It is also important to inform potential migrants about the risks of illegal stay, to improve the skills of migration authorities and to introduce new monitoring technologies. Only by combining these measures will Kazakhstan be able to strengthen its resilience to global challenges and at the same time maintain its status as a responsible member of the international migration community.

An important step in this direction is Kazakhstan's participation in the Eurasian Economic Union, where the country is one of the founding members. The Eurasian Economic Union has created a progressive system of protection of labour migrants' rights, which provides for full social protection of workers, including medical care, mutual recognition of educational documents without additional procedures, and legal guarantees for the education of children of labour migrants on an equal footing with local residents. Of particular importance is the simplification of administrative procedures – Eurasian Economic Union citizens are exempt from the need to fill out a migration card and register in the country of employment if their stay does not exceed 30 days. Such mechanisms contribute to the legalisation of labour migration and reduce the risk of violations of migrants' rights.

Growth of the shadow economy and problems of social protection of labour migrants. Irregular labour migration is one of the key factors behind the expansion of the shadow sector in the economy of the Republic of Kazakhstan, as a significant number of foreigners who officially enter the country for employment end up outside the formal employment and proper legal protection. According to the Ministry of National Economy, the overall level of the shadow economy in 2021 exceeded 19% of GDP, with the construction, agriculture, trade and small business sectors being the most vulnerable to informal employment. According to the International Organisation for Migration (2024a), the share of foreign workers who initially arrive legally but then move into the irregular segment remains quite high, mainly due to a lack of information on procedures for extending permits, the lack of social protection, and the risk of penalties in case of overstaying documents. This results in so-called "unregistered labour migration", where labour relations are actually conducted without formal contracts, no tax deductions are made, and workers do not have access to health insurance or pension contributions. The scale of migration processes is confirmed by recent statistics. According to the Border Guard Service of Kazakhstan (International Organisation for…, 2024b), 3.5 million migrants left the country in the fourth quarter of 2023 alone. Most of them went to Uzbekistan (1.5 million people), Kyrgyzstan (746,000 people) and the Russian Federation (678,302 people). Such intensity of migration flows indicates that Kazakhstan is deeply integrated into regional migration processes and highlights the need to improve mechanisms for controlling the movement of labour resources.

The legal framework governing the employment of foreigners in Kazakhstan, despite the existence of key documents such as the Labour Code of the Republic of Kazakhstan (2015) and Law of the Republic of Kazakhstan No. 477-IV "On Migration of Population" (2011), has significant gaps in terms of control and punishment for illegal employment. The Labour Code defines general conditions for concluding an employment contract, including occupational health and safety requirements, but does not provide for mechanisms to verify the legality of foreigners' employment. For example, the document does not contain provisions on mandatory registration of foreign workers in state registers, which makes it difficult to control their status. In turn, Law of the Republic of Kazakhstan No. 477-IV "On Migration of Population" (2011) defines the procedure for obtaining work permits and quotas for the employment of foreigners, but does not contain requirements for regular reporting by employers on legal employment. This creates conditions for entrepreneurs who use illegal labour to avoid liability. Sanctions for illegal employment are enshrined in Code of the Republic of Kazakhstan on Administrative Offences (2014), where fines for individuals can reach 50 monthly calculation units and for legal entities up to 500 monthly calculation units depending on the number of illegal workers. However, these sanctions often remain on paper due to insufficient coordination between the tax authorities, migration police and labour inspectorate. The absence of automated systems for registering workers makes it difficult to detect violations, and poor enforcement of inspections contributes to employer impunity.

From a socio-economic perspective, irregular labour migration has a negative impact on the entire employment system. First, it creates a non-competitive environment for official businesses, which are forced to comply with labour and tax regulations, while "shadow" employers gain short-term benefits from lower labour costs. Secondly, it is becoming more difficult to accurately record the labour force in state statistics, which hinders labour market planning and the development of comprehensive economic development programmes. Third, there is a growing threat of exploitation of foreign workers: according to the Ministry of Labour and Social Protection, up to 40% of complaints from foreigners' concern non-payment of wages or forced termination of employment, and in most cases, they do not have any written contract (Zhakupova named the…, 2024). Accordingly, victims are practically unable to defend their rights in court or claim compensation, as their illegal status threatens them with deportation, and employers themselves usually believe that employees will not appeal to the authorities for fear of administrative punishment.

Irregular migration also has a significant impact on the health and education systems, which is manifested in increased pressure on state resources and limited access to basic services for migrants themselves (Miliienko, 2023). In the healthcare sector, migrants without official status are usually deprived of health insurance, forcing them to seek emergency care. This leads to increased costs for hospitals, which are obliged to provide basic care without payment. At the same time, migrants avoid going to doctors for fear of exposure, making them vulnerable to serious diseases that can spread among the population. Doctors also note that the lack of preventive programmes for migrants makes it difficult to fight infectious diseases such as tuberculosis or viral hepatitis (International Organisation for…, 2024a). In the field of education, children of labour migrants often do not attend school due to lack of necessary documents or fear of deportation of their parents. This contributes to social exclusion and creates obstacles for the further development of these children. Schools in the border regions where most migrants arrive face a lack of resources to integrate children into the educational process, in particular, there are no specialised

programmes for learning the state language or adaptation courses. For adult migrants, the situation is even more complicated: educational opportunities, such as vocational training or advanced training courses, are virtually non-existent, making it impossible for them to integrate into the formal labour market. A detailed analysis of the main aspects of the shadow economy and irregular labour migration in Kazakhstan for the period 2021-2024 is presented in Table 1.

Table 1. Items under which non-current assets are recognised in the balance sheet

Indicator	Value/Data	Comment
Share of the shadow economy in GDP	19% (2021)	The high proportion demonstrates a significant level of informal economic relations in the country
Industries with the highest share of illegal employment	Construction, agriculture, trade, small business	These industries are characterised by a low level of control by government authorities
Number of illegal migrant workers	Estimate: 300,000-500,000 people	A significant portion of migrant workers do not have official status due to the complexity of document processing
Average time spent in illegal status	6-18 months	Many workers remain illegally due to the lengthy legalisation process or the disadvantage of official status
Level of complaints from illegal workers to authorities	Up to 40% of cases are related to non-payment of wages or forced dismissal	Illegal status limits opportunities to seek help due to fear of deportation
Main reasons for illegal employment	Lack of information, difficulty in legalisation, fear of penalties, lack of employer control	These factors contribute to the transition of workers into the “grey” zone of the economy
Budget losses due to shadow employment	≈ USD 1.5-2 billion annually	The main reason is non-payment of taxes and social contributions
Availability of social guarantees for illegal workers	Lack of access to health insurance, pension savings and compensation in case of injuries	Social guarantees are practically unavailable to illegal workers
Penalties for employers for illegal employment	USD 200-5000 depending on the scale of the violation	Actual cases of fines being imposed are rare due to weak control and the difficulty of proving violations
State initiatives for de-shadowing	Resolution of the Government of the Republic of Kazakhstan No. 589 “On Approval of the Comprehensive Action Plan to Combat the Shadow Economy for 2023-2025” (2023)	Includes modernisation of employee accounting systems, strengthening tax control and enterprise inspections
Availability of ratification of international agreements	Kazakhstan has not ratified Convention of the International Labour Organisation No. 143 “Migrant Workers (Supplementary Provisions) Convention” (1975)	The lack of ratification limits the implementation of standards for the protection of migrant workers

Source: created by the authors based on data analysis of B. Davé (2014), International Organisation for Migration (2024a), N.B. Kuttybayeva *et al.* (2024)

The data presented in the table demonstrate the complex nature of the problem of irregular labour migration in Kazakhstan, where economic, social and legal aspects are closely intertwined. Particularly noteworthy is the imbalance between significant penalties and limited enforcement capacity due to insufficient control, which creates a kind of paradox in the regulatory system. The relationship between the duration of stay in irregular status and the gradual deterioration of the socio-economic situation of migrants is important, as evidenced by the lack of access to basic social guarantees. The causal link between the complexity of legalisation procedures, high risks of sanctions and the tendency of migrants to remain in the shadow sector, which forms a vicious circle of informal employment, is also noteworthy. An analysis of financial indicators, including the amount of fines and budget losses, highlights the significant economic impact of this phenomenon on public finances. Comparison of data on the sectoral concentration of irregular migrants with the rates of appeals to the authorities reveals high-risk sectors and potential points for strengthening control. At the same time, the lack of ratification of key international agreements complicates the implementation of systemic solutions and limits opportunities for interstate cooperation in combating illegal migration.

Another consequence is the growing risk of criminal practices. Criminal Code of the Republic of Kazakhstan (2014) (Article 394) qualifies the organisation of illegal migration as a criminal offence, but the actual exploitation of illegal workers remains largely in the grey economy, where it is difficult to prove the employer’s intent and violation of the employee’s rights. In addition, as already mentioned, Kazakhstan has not ratified Convention of the International Labour Organisation No. 143 “Migrant Workers (Supplementary Provisions) Convention” (1975), which contains principles for the protection of migrants from abuse and calls on states to establish clear guarantees for those in vulnerable situations. Finally, the lack of international legal obligations complicates the development of national mechanisms for legalisation and social support, and reduces the ability to punish systemic exploitation.

In view of this, there are attempts to partially address these shortcomings through Resolution of the Government of the Republic of Kazakhstan No. 589 “On Approval of the Comprehensive Action Plan to Combat the Shadow Economy for 2023-2025” (2023). The Plan considers measures to de-shadow economic transactions and strengthen tax control, which may indirectly help identify employers who illegally engage foreigners. However, an analysis of the Plan’s

provisions shows that there are no specific provisions for bringing offending employers to justice or providing legal assistance to illegal migrant workers. Similarly, the issues of legalisation of those who have been undocumented for a long time but want to come out of the shadows are not sufficiently addressed. On the positive side, the introduction of electronic employee record systems and projects to modernise the mechanism for controlling the issuance of work permits can be considered as a positive development, which will theoretically simplify the exchange of information between the migration police, the State Labour Inspectorate and tax authorities. However, without detailed by-laws or new provisions in Labour Code of the Republic of Kazakhstan (2015) that would provide for direct sanctions for undocumented labour relations and protection of victims of exploitation, the effectiveness of these measures remains questionable.

Non-governmental organisations, trade unions and international institutions make a significant contribution to supporting migrants and combating irregular employment. For example, a Kazakhstani non-governmental organisation, the Migrant Support Centre, provides free legal advice and assistance with submitting documents for legalisation. The activities of such organisations often become the only source of support for migrants who face human rights violations or exploitation. Trade unions, such as the Trade Union of Construction Workers, work to develop simplified employment procedures and establish collective insurance programmes for foreign workers. International organisations, such as the International Labour Organisation, support the government of Kazakhstan in reforming legislation, in particular through recommendations to ratify the Convention of the International Labour Organisation No. 143 "Migrant Workers (Supplementary Provisions) Convention" (1975). Their efforts are aimed at establishing interstate registers of workers and concluding repatriation agreements to address irregular migration (International Organisation for Migration, 2024a).

The problem of social protection, in particular in the area of healthcare and pension savings, becomes particularly acute when it comes to the long-term stay of irregular workers in Kazakhstan. Some of them find opportunities to extend their visas or work permits only formally, but in practice remain "outside" the official market. This situation increases the risk of accidents at work without compensation, lack of sick leave and social guarantees (International Organisation for…, 2024b). In general, the state loses tax revenues, and the workers themselves, having completed their illegal activities, do not receive any pension or the opportunity to defend their rights in the event of a conflict with their employer.

In view of the above, in order to effectively combat irregular labour migration in Kazakhstan, it is necessary to involve key government agencies, including the Ministry of Labour and Social Protection, the Ministry of Internal Affairs (in particular, the Migration Police Department), the Ministry of Finance (fiscal authorities), the State Labour Inspectorate and local executive bodies (akimats). The Ministry of Labour will be responsible for developing by-laws regulating the employment of foreign nationals, including the creation of an electronic register of employment contracts. The Ministry of Internal Affairs will ensure control over compliance with migration legislation through enhanced monitoring and joint inspections with other agencies. The fiscal authorities will integrate information on tax liabilities of employers and employers into a common digital platform, which will allow for the prompt identification of violations. Local akimats will be responsible for implementing adaptation programmes at the regional level, including language courses and vocational training for migrants.

Digitalisation is a critical component of migration policy reform. It is proposed to create a "Single Migration Portal", which will include a database on the status of foreign workers, their employment conditions and employer registration. This platform should integrate with automated systems of border control and labour inspections, ensuring prompt data exchange between government agencies. The system should support automatic risk analysis of illegal employment based on big data and artificial intelligence. To increase the transparency of the interaction between employers and employees, an electronic register of labour contracts should be introduced, which will allow fiscal authorities to check compliance with quotas and record contributions to social funds.

To facilitate the legalisation of migrants, it is proposed to introduce training programmes that include language courses, professional retraining and legal awareness training. In particular, training in the basics of labour law and the state language should be available at state employment centres and non-governmental organisations. For those seeking to legalise their status, special adaptation courses could be organised, after which they would receive a work permit. In addition, voluntary repatriation programmes should be developed for irregular migrants, including compensation for return to their country of origin, reintegration support and training to create economic opportunities in their home countries. At the international level, readmission agreements should be concluded with the main countries of origin, such as Uzbekistan, Tajikistan and Kyrgyzstan, to facilitate return procedures. These measures will reduce the level of irregular employment, improve the social integration of migrants and increase the country's economic transparency.

Socio-economic problems of illegal migrants as a source of instability in Kazakhstan. The socio-economic aspects of irregular migration in the Republic of Kazakhstan are manifested primarily in the form of a burden on the labour market, destabilisation of certain sectors of the economy and increased social tensions in the regions where migrants are most concentrated. Although Kazakhstan has demonstrated significant economic growth in recent years, it is increasingly difficult for the country to balance the attraction of skilled professionals with the prevention of uncontrolled flows of low-skilled workers, who often end up in the "shadow" employment segment. In the context of rapid urbanisation, cities and districts bordering neighbouring countries do not always have sufficient infrastructure to integrate migrants into the local labour market. As a result of the lack of access to official employment channels, a significant share of foreigners arriving legally or temporarily lose their legal status and join the ranks of unregistered workers, thus exacerbating structural imbalances and intensifying competition with the local population.

The steady increase in the number of irregular migrants in border and large industrial centres is contributing to the formation of special local communities separated from official institutions. These communities often lack basic living conditions, medical care and security, which leads to an increased risk of crime and the spread of infectious diseases.

According to S. Hasanaj (2024), such ghettos or enclaves of irregular migrants often become a source of interethnic conflict due to the clash of different traditions, customs, and mentalities. Existing state programmes of social adaptation, designed mainly for officially recognised internally displaced persons, do not cover those without formal status. This means that the most vulnerable categories of irregular migrants are left without legal or social protection, which increases the risks of human trafficking, exploitation and criminal activity. A comprehensive analysis of the main problems, institutional gaps and their regional implications is presented in Table 2.

Table 2. Institutional gaps and regional consequences of irregular migration in the Republic of Kazakhstan

Aspect	Current problem	Institutional gap	Regional influence
Labour market structure	Rapid growth in illegal employment (e.g., day labour in construction and agriculture), which makes it difficult to account for the real sise of the labour force	The lack of clear administrative procedures or digital systems for registering migrant workers, forcing many to remain illegal and work informally	Disparities in wages in industries dependent on cheap and flexible labour (in particular, construction, agriculture) cause dissatisfaction among the local population and undermine the conditions of fair competition in border and industrial areas
Infrastructure capacity	Overburdening of utility and transport systems, especially in border cities with a significant influx of migrants (e.g., crowded bus routes, schools operating at capacity)	Limited budget planning and weak coordination between local and regional authorities, leading to insufficient funding for infrastructure expansion	The growing burden on public services (transportation, schools, medical facilities) in rapidly growing industrial centres leads to service disruptions and a decline in the quality of life of local residents
Access to the healthcare system	Migrants often avoid preventive examinations and vaccinations; sometimes the only option for them to receive medical services is to go to emergency rooms	The lack of special mechanisms for health insurance or preferential services for persons without legal status, which makes it impossible for them to regularly receive the necessary assistance	There is an increased risk of the spread of infectious diseases in regions with a significant concentration of migrants, which can overload medical facilities and affect the overall state of public health
Housing market dynamics	The formation of migrant “enclaves” where several families can live in one flat or illegal settlements arise on the outskirts of cities	The lack of temporary housing programs or affordable housing loans for migrants pushes them towards expensive and often informal rental options	Sharp increases in rental prices in certain urban areas and the spread of illegal developments, which exacerbates the shortage of affordable housing for low-income local residents
Fiscal effect	Significant loss of tax revenues due to widespread informal employment of migrants, which reduces the ability to finance socially important areas	The lack of simplified mechanisms for formalising employment relationships, including quick tax registration, keeps migrants in the “shadows”	Reduction of budgets of local governments that do not receive the proper amount of taxes, which affects the quality and accessibility of medical, educational and other public services
Social integration	Migrant communities often live-in isolation, have poor language proficiency, and limited contact with the local population, which creates misunderstandings and stereotypes	Lack of structured integration programs (language courses, cultural adaptation, community outreach) that would help migrants better integrate into local society	Deepening interethnic or cultural tensions in communities, where locals may view migrants as competitors for housing, jobs and social services
Regional development	Concentration of migrants in several industrial or economically developed centres (for example, near large enterprises or agricultural regions), which makes it difficult to evenly distribute the population	Lack of effective interregional coordination that would direct migrant flows to regions with real labour needs and ensure more balanced development	Some areas face labour shortages and vacant housing, while others are overcrowded, with rising unemployment and strain on resources and infrastructure
Security management	The proliferation of shadowy “middlemen” or illegal agents who exploit migrants’ vulnerabilities (e.g., offering fictitious documents or employment)	Imperfect or insufficiently implemented legislative procedures for legalising status, which forces migrants to resort to illegal schemes to obtain documents or work	Increasing risk of migrants falling into criminal networks and human trafficking, difficulty in controlling law and order, and increase in illegal intermediary structures

Source: created by the authors based on data B. Bokayev *et al.* (2020) and International Organisation for Migration (2021; 2024; 2024c)

The analysis presented in Table 2 reveals the multilevel nature of the impact of irregular migration on the socio-economic stability of Kazakhstan's regions. Particular attention is drawn to the interdependence between structural problems of the labour market and their manifestations at the local level, where informal employment in construction and agriculture creates significant wage disparities and exacerbates social tensions. A critical situation is observed in the infrastructure provision of border towns, where insufficient coordination between levels of government leads to systemic underfunding of basic services. Of particular concern is the situation in healthcare and housing, where the lack of access to preventive healthcare and the formation of residential enclaves poses long-term risks to public health and social cohesion. Fiscal losses from informal employment directly affect the ability of local authorities to provide adequate public services, while the lack of integration programmes exacerbates interethnic tensions in communities. Uneven regional development, manifested in the concentration of migrants in industrial centres, puts additional pressure on local resources and infrastructure, while leaving other regions without the necessary labour force. This complex interaction of problems requires a systematic approach to addressing them, with a particular focus on strengthening institutional capacity and improving interregional coordination.

Based on a comprehensive analysis of the development of Kazakhstan's legislative framework in the field of migration, the article reveals significant shortcomings in the regulatory framework for the social aspects of immigrant integration. The current legislation, represented mainly by scattered sectoral documents, does not provide a systematic solution to the issues of cultural and socio-economic adaptation of foreign citizens. An illustrative example is Resolution of the Government of the Republic of Kazakhstan No. 990 "On Approval of the State Programme for the Development of Regions for 2020-2025" (2019), which did not provide for effective mechanisms for providing housing for persons with irregular legal status. Despite attempts to update approaches, the declared Concept of Rural Development of the Republic of Kazakhstan for 2023-2027 (2022) also does not offer effective tools to address the problems of migrant integration. The declared transition from a sectoral and territorial approach to stimulating the territories' own potential has left the issue of social adaptation of foreigners unaddressed. Additionally, it should be noted that the Concept of Demographic Policy of the Republic of Kazakhstan (2006) contains only declarative provisions on the need for integration of foreigners, without defining specific funding mechanisms and criteria for assessing the effectiveness of adaptation measures. This fragmentation of regulations and the lack of a systematic approach to addressing migration issues create preconditions for growing social tensions, which in the long run could lead to destabilisation of the situation in the region.

On the economic side, mass irregular migration can cause distortions in the housing market and increase rental prices in cities with a large concentration of migrants. At the same time, since illegal workers do not pay taxes and social contributions, the state loses significant funds that could be used to build hospitals, schools or develop infrastructure. The absence of formal employment contracts makes it impossible for migrants to accumulate pension rights and access state social security programmes, which in turn increases poverty and exacerbates social inequality. Irregular employment makes it impossible to calculate the actual labour needs of regions, and therefore complicates the formation of a rational migration policy (Ostermeier, 2020).

A separate factor is migration from regions affected by political conflicts or economic crises (for example, South Asia and some Middle East republics), where poverty, unemployment, and uncertainty about the future force people to seek asylum in Kazakhstan. The absence of a sustainable system for identifying and differentiating between migrants fleeing conflict and those who deliberately violate migration norms for economic gain creates misunderstandings among local residents. The line between refugees in need of humanitarian protection and illegal labour migrants is blurred. Thus, social tensions and the risk of xenophobia are growing. Formally, the status of refugees or persons in need of complementary protection is regulated by Law of the Republic of Kazakhstan No. 216-IV "On Refugees" (2009), but it does not cover situations where a foreigner arrives in the country for economic reasons, nor does it define operational mechanisms for interaction with countries of origin.

A legal assessment of existing state strategies shows that most programmes are designed to address the consequences of irregular migration (such as increased crime and the shadow economy) without structural integration of such migrants into local society. Resolution of the Government of the Republic of Kazakhstan No. 990 "On Approval of the State Programme for the Development of Regions for 2020-2025" (2019), despite positive developments in the area of simplifying tax procedures and electronic monitoring, does not provide clear algorithms for legalising those seeking to leave the shadow economy. Similarly, Resolution of the Government of the Republic of Kazakhstan No. 961 "On Approval of the Concept of Migration Policy of the Republic of Kazakhstan for 2023-2027" (2022), although it envisages improving border control and developing information systems to manage migration flows, does not contain a clear plan for financing social programmes aimed at improving the living standards of migrants or creating effective integration courses that could facilitate their adaptation and integration into society.

These socio-economic problems of irregular migrants are inextricably linked to instability in certain regions of Kazakhstan and may result in greater threats to state security. Lack of access to basic services, coupled with the inability to protect their rights due to their irregular status, contributes to exclusion and polarisation, while fuelling the illegal activities of intermediaries and criminal networks. In view of this, ensuring effective mechanisms of social integration, streamlining migration control and ratification of key international conventions regulating the rights of labour migrants seem to be urgent tasks. Only with political will and sufficient resources will the Kazakh state be able to turn migration flows into a factor of economic and social growth instead of a source of instability and conflict.

Discussion

The results of the study show that illegal (irregular) migration in Kazakhstan is becoming increasingly complex and poses a serious challenge to national security and socio-economic development. The observed increase in migration flows from 7.5 million in 2022 to 8.2 million in 2023, as well as the dominance of migrants from the Russian Federation (68%), Ukraine (9%) and Uzbekistan (7%), confirms the

multidimensional nature of processes related to neighbourhood factors, political instability, differences in economic opportunities and new routes formed due to geopolitical tensions. An analysis of the socio-economic consequences confirms that irregular employment has a significant impact on the labour market and budget revenues, as the share of the shadow economy in Kazakhstan is reported to exceed 19% of GDP (Mukhtarova *et al.*, 2024). This aspect coincides with the idea of D. Iskakova *et al.* (2023) that growing migration flows can have a negative impact on both economic activity and the labour market: their study shows an inverse relationship between migration volumes, wages, and overall economic dynamics. At the same time, the study emphasises that the problems lie not only in the quantitative indicators of movements, but also in the quality of integration of migrants, imperfect legislation and lack of coordination between government agencies.

The identified institutional regulation problems confirm the general thesis of A.K. Amrin *et al.* (2020) that in order to effectively manage labour migration, it is necessary to improve cooperation at the international level (in particular, with strategically important countries such as China), as well as to modernise procedures for obtaining work permits. However, while scholars focus on trade and economic partnerships and the formation of a single platform for the exchange of experience, this study highlights the need to develop both mechanisms for social integration and strengthening the legal responsibility of employers to avoid systemic exploitation of migrants. This deepens the discussion, showing that cooperation should take place at several levels: not only at the interstate level (to agree on quotas and agreements), but also at the level of local authorities, which often face direct challenges of uncontrolled employment.

In the context of internal migration, the study found that many foreigners view Kazakhstan as a transit point or a temporary place of residence with the prospect of illegal further movement to other countries. This is partially consistent with the view of A. Islyami (2020), who argues that Kazakhstan is currently undergoing active urbanisation, and a significant number of migrants are concentrated in the largest cities (e.g., Astana). In turn, this study focuses on the risks posed by unregulated flows, as in the absence of clear legal mechanisms or effective border control, a certain percentage of migrants find themselves outside the legal framework. This, in turn, raises the issue of the growth of "enclaves" in megacities, where migrants live in cramped conditions and are deprived of social guarantees, which coincides with the findings of an increased crime rate and a greater burden on urban infrastructure (Kopan & Melnyk, 2024).

In terms of the impact of irregular migration on agricultural regions, the study concluded that the agricultural sector is quite attractive for low-skilled workers from neighbouring countries. At the same time, as A. Murzakulova (2020) notes in the context of Kyrgyzstan and other Central Asian countries, migration can have two effects: it can contribute to poverty reduction, but at the same time block the structural development of agriculture, when the most able-bodied population prefers to leave for seasonal work. E. Pesci and K. Dzhamangulov (2023) deepen this understanding by demonstrating how the limited capacity of public employment services and imperfect vocational training programmes exacerbate the negative effects of labour migration in rural areas. Although the study focused more on the host country (Kazakhstan), it found that similar conflicts of interest exist here as well: on the one hand, there is a demand for cheap labour, and on the other hand, the lack of clear rules leads to social insecurity for migrants and unequal competition with local workers.

The results of the rapid increase in the number of violations of migration legislation in the border regions (from 15% in 2021 to 25% in 2023) correlate with S. Zhumashbekova *et al.* (2024) thesis that the expansion of migration processes in Central Asia contains not only potential economic benefits but also a set of threats: from social tensions to the spread of criminal practices. At the same time, the study emphasises that effective detection of such violations requires enhanced coordination between migration police, fiscal authorities and labour services, which is still lacking.

Expanding on this line, it can be noted that the assessment of the problem of labour "leaching" from Ukraine and Russia to Kazakhstan (especially highly skilled labour) is consistent with the findings of S.T. Mussina *et al.* (2020) that the state is trying to regulate internal and external flows, but does not always have time to respond to new migration challenges. The negative external migration balance described by the author is not seen as a key threat in the results obtained (as the inflows were monitored), but it was found that uncontrolled flows can still destabilise regions and stimulate the growth of the shadow economy.

The findings on the need to improve policies and programmes to support migrants are in line with G. Kappassova *et al.* (2024), who point out the special role of socio-cultural adaptation and the creation of an appropriate legal framework for immigrants. The study confirms this thesis, as the Comprehensive Action Plan to Combat the Shadow Economy and Resolution of the Government of the Republic of Kazakhstan No. 961 "On Approval of the Concept of Migration Policy of the Republic of Kazakhstan for 2023-2027" (2022) actually lack specific algorithms for legalising long-term migrants who are ready to work officially.

In terms of broader global trends, C. McMichael (2023) findings on the growing climate challenges leading to increased displacement have not yet become a dominant factor in Kazakhstan. However, the results of the study indirectly confirm that if the environmental situation worsens or water shortages in southern Central Asia increase, transit and labour flows to Kazakhstan could become even more massive. This will require Kazakhstan not only to update its migration procedures but also to build a "climate-oriented" reception infrastructure, as the scientist mentions when analysing new risks to people's health and well-being.

Special attention should be paid to the global trend of temporary migration, as described by N. Piper (2022). The study emphasises that many people come to Kazakhstan ostensibly for a short period of time, and then, due to the difficulty of extending their legal status or the lack of guarantees of return, they get "stuck" in the illegal segment. N. Piper's (2022) study considers the "three R's" (recruitment, remittances, return) as the basic elements of temporary migration, which often turn into a source of exploitation. The findings confirm the reality of such "forced transit" or "forced temporary" migration, when migrants themselves find themselves in conditions where the only solution is to work in the shadows without full labour rights. This can indeed fuel "informal" recruitment schemes and corruption mechanisms.

It is equally important to correlate the findings of the study with the observations of A. Davlatbek (2024), who analyses how international law and existing conventions affect the domestic migration policies of Central Asian states. The study found that Kazakhstan has not yet ratified Convention of the International Labour Organisation No. 143 "Migrant Workers (Supplementary Provisions) Convention" (1975), which hinders the development of clear standards for the protection of labour migrants. Thus, once again, we observe a lack of harmonisation with international norms, which the author also points out – international agreements can act as an incentive to create clearer guarantees of migrants' rights, but they are not always properly implemented.

Turning to domestic policy factors, A. Kultanova *et al.* (2023) findings on the need for comprehensive regulation and transparent solutions in the field of migration suggest that Kazakhstan needs better coordination between governmental, civil society and international structures. The study proves that migration processes are currently accompanied by insufficient control and a lack of transparent legalisation procedures that would allow for effective management of migrant flows.

The study also confirmed the thesis of T.R. Bazarbekov *et al.* (2024), which states that Russia's full-scale war in Ukraine and the COVID-19 pandemic have significantly affected the volume of migration flows to Kazakhstan – in particular, the arrival of Russian citizens, especially highly qualified IT specialists and entrepreneurs, has increased. The paper notes a sharp increase in migration flows after 2022, which is confirmed by the latest statistics. At the same time, according to the qualitative interviews used by T.R. Bazarbekov *et al.* (2024), even updated migration policy concepts are not able to quickly adapt to new situations when the number of entries is rapidly increasing due to military or political factors.

The issue of criminal schemes and insufficient distinction between migrant smuggling and human trafficking, as discussed by Y. Dandurand and J. Jahn (2020), also proved to be relevant for Kazakhstan, as imperfect legislation and unclear distinctions between different forms of human smuggling increase the risks of abuse and exploitation. Although the study only touched on the issue of human trafficking in passing, it was found that some migrants may be involved in various criminal "chains" (from smuggling to forced labour). These observations are in line with the global criticism expressed by scholars of an inadequate or insufficiently flexible legal framework that fails to keep pace with the dynamics of modern irregular migration.

It is also worth noting that the results confirm what A.A. Abzhapparova (2019) mentions: the migration of young people, in particular students and graduates, has a significant impact on the country's demographic profile and its future innovation potential. Despite Kazakhstan's efforts to invite foreign teachers, create scholarships and improve domestic higher education, some young people still prefer to go abroad, and instead, another contingent arrives in the country – migrants with lower income or qualifications, who often find themselves in the "grey zone" of the economy (Sheryazdanova *et al.*, 2024). The study shows that this mismatch between market needs and the actual structure of migration flows can lead to a loss of skilled workers and further strengthening of the shadow sector.

In general, the data obtained indicate that Kazakhstan is still in a transitional stage of formulating a coherent migration policy that can simultaneously ensure national security, respect for human rights and promote economic development. Compared to previous years, migration volumes have increased significantly, transit routes have become more active, and regional political crises have made these flows more unpredictable (Vasechko, 2023). On the one hand, as S. Zhumashbekova *et al.* (2024) show, there are obvious benefits from the inflow of new labour, which contributes to the development of the labour market. On the other hand, the lack of an effective institutional architecture, low standards of social protection, and a lack of integration mechanisms pose risks of criminalisation, the growth of the shadow sector, and interethnic tensions (Aliev *et al.*, 2024).

Thus, the study shows the complex nature of irregular migration in Kazakhstan and the high sensitivity of this issue to global geopolitical challenges. Comparison of the results with the works of scholars indicates an urgent need for a thorough update of the regulatory framework, intensification of international cooperation and more active social policy towards labour migrants. All of this is a prerequisite for the balanced use of migration potential and, at the same time, protection of the interests of its own citizens.

Conclusions

This study showed the complex nature of the problem of illegal migration in the Republic of Kazakhstan, in particular its challenges, consequences, and approaches to improving state regulation in the context of ensuring national security and socio-economic stability of the State. In the course of the study, a comprehensive analysis of three interrelated areas was carried out, which allowed for a holistic understanding of the issue. First, the challenges and security threats associated with illegal migration were analysed, which showed a significant increase in migration flows in 2023-2024, with citizens of the Russian Federation (68%), Ukraine (9%) and Uzbekistan (7%) dominating. Secondly, the impact of the shadow economy on the problems of social protection of labour migrants is studied, which revealed significant gaps in the system of their legal protection and access to basic social services. Thirdly, the socio-economic problems of irregular migrants as a source of regional instability were assessed, which demonstrated the formation of separate local communities and the aggravation of interethnic tensions. The research results confirmed the existence of systemic shortcomings in the current legislation, in particular in the Law "On Migration of the Population" and Resolution of the Government of the Republic of Kazakhstan No. 961 "On Approval of the Concept of Migration Policy of the Republic of Kazakhstan for 2023-2027", which do not provide effective mechanisms to counteract illegal migration and protect migrants' rights.

The conceptualisation of the results obtained suggests the need to introduce a comprehensive approach to the regulation of migration processes, which should cover legal, economic and social aspects at all levels of government. In the legal dimension, this implies harmonisation of national legislation with international standards, in particular through the ratification of Convention of the International Labour Organisation No. 143 "Migrant Workers (Supplementary Provisions) Convention", as well as the development of clear mechanisms for legalising migrants and protecting their rights. In the economic aspect, it is necessary to create

transparent conditions for the employment of foreigners, introduce effective mechanisms for monitoring the labour market and increase employers' responsibility for the use of illegal labour. The social dimension requires the development of programmes for the integration of migrants, ensuring their access to basic social services and creating conditions for intercultural dialogue. Of particular importance is the interdependence between imperfect migration legislation, the growth of the shadow economy and increased social tensions in regions with a high concentration of migrants, which requires coordinated action by various government agencies and the introduction of innovative approaches to managing migration processes.

A significant limitation of this study is the lack of complete and verified statistical information on the real scale of illegal migration due to its latent nature. An additional factor that complicated the study was the limited access to data on the results of inspections of enterprises that employ illegal migrants, as well as the lack of systematic information on the effectiveness of measures to combat illegal migration at the regional level. Promising areas for further research in this area include an in-depth study of the impact of digital transformation on the effectiveness of migration control, a comparative analysis of international experience in legalising labour migrants, research into econometric models for assessing the impact of irregular migration on regional labour markets, and the development of a methodology for assessing the effectiveness of state programmes for the social integration of migrants in the context of global geopolitical challenges.

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Conflict of interest

None.

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Нелегальна міграція в Казахстані: виклики, наслідки та підходи до вдосконалення державного регулювання

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Анотація. Метою дослідження було виявлення ключових проблем та інституційних викликів, пов'язаних з нелегальною міграцією в Республіці Казахстан, а також аналіз підходів до вдосконалення державного регулювання міграційних процесів в контексті забезпечення національної безпеки. Методологічною основою дослідження стали системний підхід, структурно-функціональний метод – для вивчення інституційної архітектури державного регулювання міграційних процесів; порівняльно-правовий метод дозволив порівняти національне законодавство з міжнародними стандартами у сфері захисту прав мігрантів. Дослідження виявило суттєві прогалини в законодавчому регулюванні, серед яких відсутність чітких механізмів виявлення нелегальних мігрантів, недостатність норм щодо відповідальності роботодавців, обмеженість можливостей для легалізації статусу мігрантів. Виявлено системні недоліки в координації між різними державними органами, що знижує ефективність контролю за міграційними потоками. Аналіз продемонстрував відсутність комплексного підходу до соціальної інтеграції мігрантів та недостатній розвиток інфраструктури для їх адаптації, особливо в прикордонних регіонах. На основі проведеного дослідження розроблено комплексні рекомендації щодо вдосконалення міграційної політики, які включають необхідність ратифікації Конвенції Міжнародної організації праці № 143, посилення інституційної координації між міграційними службами, запровадження програм легалізації для окремих категорій трудових мігрантів та створення ефективних механізмів соціальної інтеграції. Запропоновано створити єдину цифрову платформу для обліку та моніторингу міграційних процесів, а також запровадити спеціалізовані навчальні та адаптаційні програми для мігрантів. Обґрунтовано необхідність розробки диференційованого підходу до регулювання міграції залежно від регіональних особливостей та потреб ринку праці. Реалізація запропонованих заходів дозволить знизити ризики, пов'язані з нелегальною міграцією, та забезпечити стабільний розвиток регіонів країни

Ключові слова: трудові ресурси; правовий захист; соціальна інтеграція; регіональний розвиток; тіньова зайнятість; міграційний контроль

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State security priorities: Perspectives on contemporary approaches to combating women's crime and protecting witnesses' rights

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Abstract. This study was conducted to analyse current approaches to combating female crime and protecting the rights of witnesses in the Kyrgyz Republic, focusing on the historical context, legal regulation, and existing support programs. The methodology included conducting a comparative analysis of international experience, in particular the practices of Great Britain and Norway, as well as an analysis of judicial practice in Kyrgyzstan covering the period from 2020 to 2023. The study also highlighted the importance of implementing rehabilitation programs that take into account the socio-economic factors that influence women's criminal behaviour. It was established that the increase in the level of crime among women is associated with a low level of social support, economic vulnerability and the pressure of traditional gender norms. The obtained results indicate the need to improve the existing programs for the protection of witness rights and support for women in criminal justice, as well as the need for changes in legislation to ensure greater gender equality and social support. Additionally, the study underscores the relevance of addressing systemic issues that contribute to gender-based disparities, fostering a more equitable and supportive environment. Changes in the legal

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framework are also important, which may include the adoption of new laws and the modification of existing ones to improve support for women and witnesses in criminal proceedings

Keywords: gender-focused programs; legal reforms; risk of reoffending; institutional support; rehabilitation and reparation mechanisms

Introduction

The necessity to create and put into practice cutting-edge, successful strategies to prevent female criminality and safeguard the rights of witnesses who might be at risk during the legal system makes this topic pertinent. States must offer comprehensive solutions that consider the social, psychological, and economic aspects of women's crime as well as the unique needs of witnesses who frequently face threats or stigmatisation in light of the current rise in crime, the spread of violence, and discrimination, particularly on the basis of gender. State security priorities should be aimed not only at combating crime, but also at preventing recidivism, ensuring rehabilitation and reintegration for women offenders.

Ensuring state security and law and order is a major task for any country. Combating women's crime and protecting the rights of witnesses are important components of this process. Women's crime has specific characteristics that require unique approaches to justice and social support (Kopan & Melnyk, 2024). Furthermore, ensuring the safety of witnesses is vital for effective justice, as fear for the life and health of witnesses can undermine trust in the judicial system and obstruct justice. In this context, the study of the legal framework and actual practices in the Kyrgyz Republic allows not only to examine the specifics of legal regulation, but also to identify gaps and opportunities for improvement.

Improving witness protection in Central Asia has included initiatives like anonymity provisions and resettlement support to enhance safety, as considered by United Nations Office on Drugs and Crime (2024a). However, research shows that these efforts often face challenges, including insufficient funding and a lack of interagency coordination, both essential for effective witness protection. Despite international and local regulations, particularly UN guidelines, emphasising the importance of these measures, there remains limited data on their actual implementation and acceptance in Kyrgyzstan.

According to D. Ryskaliyev *et al.* (2019), addressing women's crime in Central Asia faces challenges related to gender stereotypes and limited support programs. Penal Reform International (2014) highlights that woman face economic and social barriers post-imprisonment, increasing recidivism risk. Existing programs often overlook specific needs, leading to reoffending. Research indicates insufficient legal support and limited access to social and psychological programs, revealing gaps that need further study, especially on cultural factors influencing female crime and support to prevent recidivism.

In Kyrgyzstan, women re-entering society after imprisonment face significant obstacles like discrimination and stigma, complicating reintegration. The Central Asian Bureau for Analytical Reporting (2023) notes that female ex-prisoners are vulnerable due to limited access to employment, healthcare, and social support, increasing recidivism risk. Social stereotypes hinder their access to work and basic services. L. Spytska (2023) argues that to address these issues, specialised rehabilitation programmes that offer psychological support and professional development, as well as gender-sensitive witness protection mechanisms are needed to increase safety, especially for women in criminal proceedings.

D.N. Zhuk and V.G. Mazur (2023) emphasise the importance of understanding the causes of female crime linked to women's societal roles but note gaps, including the influence of socio-economic factors, education, employment, and recidivism specifics. The lack of analysis on the effectiveness of current rehabilitation programs suggests a need for additional research to develop comprehensive strategies.

In international criminal justice, the problem of witness protection concerns insufficient attention to witness training and welfare (Protosavitska, 2023). R. Pulvirenti (2024) noted that witness training can be considered a legal obligation under Article 68 of the Rome Statute of the International Criminal Court (1998), which requires the protection of witnesses in court proceedings. The study found that while such measures could reduce witnesses' stress and improve their confidence, there are still gaps in striking a balance between witness preparation and their right to a fair trial.

S.Y. Ang and G.A. Mat Saat (2024) examine sociological drivers of female crime, highlighting factors like childhood trauma, patriarchy, and criminal networks. They note that conditions such as partner violence and financial dependence often lead to criminal behaviour in women. However, the study lacks sufficient focus on reintegration challenges for women post-release.

The purpose of this study was to develop recommendations for improving approaches to combating women's crime and protecting witnesses' rights, taking into account the increased effectiveness of state security. To achieve this goal, the following tasks have been set: to assess the existing legislative and institutional mechanisms aimed at combating women's crime, identifying their strengths and weaknesses, and to study the methods of witness protection in the legal system, focusing on approaches that ensure their safety and support in criminal proceedings.

Materials and methods

This study was conducted in the period from 2022 to 2023 and consisted of six stages, covering various aspects of modern approaches to combating women's crime and protecting the rights of investigators. At the first stage, the historical aspect of the problem was analysed. For this purpose, a comparative analysis of international experience in combating women's crime was conducted. The examples of the United Kingdom (Female Prisons in…, 2024) and Norway (Life in Norway, 2024) were chosen for the study, as these countries are distinguished by innovative approaches to the rehabilitation of women in the criminal justice system. The United Kingdom implements social support programmes aimed at mental health and adaptation of convicts, while Norway is known for its humane approach to rehabilitation, focused on social integration and skills development, which contributes to successful social adaptation.

For the second stage of the research, which involved an analysis of the current situation with women's crime in the Kyrgyz Republic, the document of the United Nations Office on Drugs and Crime (2024b) was used. This paper provided

data on the number of women convicted, the types of crimes for which they were convicted, and the trends observed in this area Second, several qualitative and qualitative research methods were used to conduct the analysis. Quantitative analysis included statistics on crime among women, such as the number of convictions, the types of crimes for which they were convicted, and changes in these statistics over the past two years. The qualitative analysis was based on an examination of the socio-economic factors that may influence crime among women, as well as on the researched support and rehabilitation programs available in the country.

The third stage of the study focused on the legal regulation of countering women's crime and witness protection in the Kyrgyz Republic. In this context, the key normative documents that form the legal framework for combating female crime and protecting the rights of participants in criminal proceedings were considered, in particular the Constitution of the Kyrgyz Republic (2010), the Law of the Kyrgyz Republic No. 184 "On State Guarantees of Equal Rights and Equal Opportunities for Men and Women" (2008), Law of the Kyrgyz Republic No. 63 "On Protection and Defence against Family Violence" (2017), Criminal Code of the Kyrgyz Republic (2021), Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" (2006).

At the fourth stage, a decision was made about the influence of religious and customary norms on the realisation of gender equality, as well as the role of social institutions in the attitude to crime among women. The fifth stage of the study was devoted to the analysis of the existing mechanisms for the protection of the rights of consequences in the Kyrgyz Republic, with an emphasis on legal regulation and actual programs implemented in this area. For this, key regulatory documents were formulated, such as the Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" (2006), as well as the State Programme to Ensure the Safety of Witnesses, Victims and Other Participants in Criminal Proceedings for 2014-2016 (2014).

The sixth stage of the study was devoted to the development of recommendations for witness protection and crime prevention among women in the Kyrgyz Republic. The methodological approach included the systematisation and analysis of data to locate certain key aspects that need improvement, as well as the formation of proposals for improving witness protection mechanisms.

Results

During the twentieth century, separate mechanisms and programmes began to emerge in different countries to prevent women's crime and provide support to convicted women for their rehabilitation and return to society. This was a response to the social changes that led to the growth of female crime, and at the same time to the realisation that women in the criminal system face unique challenges that require a special approach. The specifics of women's crime are related to factors such as partner dependence, economic vulnerability, and social and psychological pressure that influence women's criminal behaviour. Therefore, the development of prevention and rehabilitation programmes has become an important step in combating crime among women and reducing recidivism.

For example, the Bangkok Rules, adopted by the United Nations General Assembly in 2010, introduced essential standards to address the unique needs of women prisoners (Penal Reform International, 2019). These guidelines emphasise a holistic approach to rehabilitation, encompassing mental and physical health care, social reintegration, and vocational skills development to facilitate a successful return to society. The Bangkok Rules recommend healthcare tailored to women's specific needs, including reproductive and mental health services, and acknowledge the impact of trauma and social factors unique to women. Additionally, these rules promote training programs that enable women to acquire practical skills, fostering financial independence and stability post-release. The Bangkok Rules advocate for family-centred support, particularly for mothers, to help maintain family ties and lessen the social stigma often faced by women after incarceration. Countries that implement the Bangkok Rules prioritise reintegration strategies that enhance life skills, build social support, and lower the risk of reoffending. These standards mark a progressive shift in correctional practices, laying a foundation for wider social and legal reforms that address the particular challenges experienced by women in prison.

The experience of rehabilitation programmes in different countries has demonstrated that a comprehensive approach focused on the needs of women in the criminal system is one of the most effective ways to reduce recidivism and help women prisoners return to normal life. For example, the United Kingdom-based organisation "Women in Prison" (2017) provides a range of support services specifically designed for women affected by the criminal justice system. Their programs aim to reduce reoffending by addressing the root causes of women's criminal behaviour, such as poverty, trauma, and mental health issues. Key services include one-on-one counselling, mental health support, and practical assistance with housing, employment, and education. Additionally, Women in Prison advocates for systemic change within the justice system, promoting alternatives to incarceration and supporting policies that prioritise rehabilitation and social reintegration for women. This approach has been recognised for its effectiveness in empowering women and fostering long-term positive outcomes, reducing the likelihood of reoffending (Female Prisons in…, 2024).

Norway is recognised for its innovative approach to rehabilitating prisoners, especially women. Facilities like Halden and Bastøy emphasise social adaptation, skill development, and mental health. Halden offers creative activities, such as woodworking and painting, that foster dignity and social integration, while Bastøy provides an open environment where women can work on a farm, engage in physical activity, and attend social integration courses, effectively reducing recidivism (Life in Norway, 2024).

While Norway is known for its rehabilitative prison system, female inmates face unique challenges due to facilities originally designed for men. Reports from the Parliamentary Ombudsman indicate that prisons like Bredtveit and Kragerø lack adequate private sanitary facilities and outdoor areas, which are essential for well-being. Women have limited work opportunities, often restricted to stereotypical tasks with minimal value for future employment. Additionally, mixed-gender prisons pose safety concerns for women, with incidents of harassment highlighting the need for gender-sensitive support and rehabilitation programs. Recommendations urge improved conditions and expanded healthcare and skills training tailored to the specific needs of female inmates (Women in Prison, 2017).

Thus, the historical experience of developing approaches to combating women's crime and rehabilitating women prisoners demonstrates significant progress in this area and shows that women's programmes can play an important role in reducing recidivism and promoting social integration. different prisons, throughout the twentieth and twenty-first centuries, other measures have been used to combat women's crime, including preventive programmes and educational initiatives. Preventive programmes included social support aimed at improving women's economic situation, psychological assistance to prevent criminal behaviour and rehabilitation programmes focused on adaptation to life after imprisonment (Ozeryanska, 2019). Educational measures included vocational training and retraining to increase women's economic independence, civic education to raise legal awareness, and gender equality programmes to help overcome stereotypes and discrimination. these measures are aimed at addressing the social and economic factors that contribute to female crime and creating conditions for successful socialisation of women, which is an effective alternative to imprisonment.

Women's crime in the Kyrgyz Republic is currently showing both a rise in the number of women convicted and a fall in the number of women incarcerated in some facilities. The number of women convicted of various offenses is continuously increasing, according to an examination of the Kyrgyz Republic's first instance courts' case law. The number of women convicted rose from 577 in 2022 to 655 in 2023. Socioeconomic variables and other elements that impact the rise in crime among women may be the cause of such dynamics (United Nations Office on Drugs and Crime, 2024b). According to data from the previous two years, 577 out of 5,882 convicted individuals in 2022 were women, accounting for 9.8% of the total number of convicts, while men comprised 90.2%. In 2023, there were 6,202 condemned individuals overall, 655 of whom were women, or 10.6%, with men making up 89.4%. This suggests that while the proportion of women incarcerated has slightly increased, the overall number of convictions keeps rising, which could be a sign of certain societal patterns and financial strain on the female population.

When examining the number of women in correctional facilities, it can be observed that the number of women in the women's colony decreased from 280 in 2019 to 182 in 2023. This could demonstrate the efficacy of certain rehabilitation initiatives and the application of alternative sentencing guidelines, such as probation or suspended sentences. The settlement colony's female population likewise declined throughout this period, going from 55 in 2019 to 25 in 2023. Men, however, were predominantly assigned to general-regime colonies, where the number of inmates also decreased from 8,818 in 2019 to 7,278 in 2023 (United Nations Office on Drugs and Crime, 2022; 2024a; 2024b).

It should be mentioned, though, that there are now more women in pre-trial detention facilities. In pre-trial detention facilities, there were 97 women in 2019, 100 in 2022, and 113 in 2023, while men were held in pre-trial detention facilities in significantly higher numbers – from 1694 in 2019 to 1293 in 2023. This could be a sign of more detentions or more aggressive attempts by law enforcement to fight crime. Figure 1 shows the dynamics of the number of female prisoners in the correctional colony.

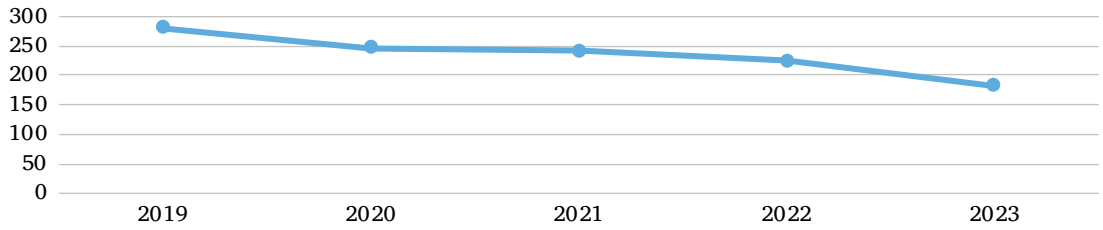

Figure 1. The number of imprisoned women in correctional colony
Source: compiled by the authors based on United Nations Office on Drugs and Crime (2022; 2024a; 2024b)

According to the data, women are typically prosecuted for less serious crimes, with larceny, drug-related offenses, and minor economic offenses accounting for the majority of prosecutions. The need to improve social support for vulnerable groups is indicated by the consistent rise in lawsuits filed against women. Programs that help women avoid criminal action in the face of socioeconomic pressure may fall under this category. These programs may involve psychological support, social adaptation, and aid.

Thus, the current situation with women's crime in the Kyrgyz Republic indicates a steady increase in the number of convicted women, which requires further study of the causes and the search for ways to reduce the crime rate. Additionally, data trends reveal an increase in pre-trial detention, suggesting that more women are being detained earlier in the criminal process, which may point to heightened prosecutorial vigilance or procedural changes. Another notable trend is the decline in women's colony populations, reflecting a shift toward alternative sentencing practices and potentially more effective rehabilitation methods. Together, these trends illustrate a dual movement: while overall convictions rise, there is a cautious yet gradual shift towards non-custodial sentences, hinting at evolving approaches in the justice system towards addressing female crime.

In the Kyrgyz Republic, fighting women's crime is a significant part of official policy, governed by a number of laws meant to promote gender equality, provide social support for women, and aid in their rehabilitation. The Constitution of the Kyrgyz Republic (2010) is the primary text that lays out the essential values of equality and non-discrimination. Article 16 outlines the principle of non-discrimination, which includes equality before the law for all people of the nation. It also ensures equality of rights and freedoms regardless of gender.

Another important act in this area is the Law of the Kyrgyz Republic No. 184 "On State Guarantees of Equal Rights and Equal Opportunities for Men and Women" (2008). This law establishes the legal framework for creating conditions for equal participation of women in all spheres of life,

including political, economic, social and cultural activities. The law is aimed at preventing gender-based discrimination and creating mechanisms to protect women's rights, especially in terms of their participation in the justice system. The law also provides for the development of special programs to support and rehabilitate women who have committed offenses or become victims of them. Thus, the law not only creates a legal basis for gender equality, but also stimulates social integration and support for women in difficult life circumstances, which can have an impact on reducing the level of female crime.

Law of the Kyrgyz Republic No. 63 "On Protection and Defence against Family Violence" (2017) was passed with the express purpose of shielding women from violence, especially domestic abuse. This paper lays forth the organisational and legal foundation for safeguarding people from violence, governing actions to stop violence, aid victims, and prosecute offenders. Determining the duties of governmental agencies that must coordinate their efforts to effectively safeguard victims of abuse is a crucial part of this law. The establishment of support groups and specialised organisations to offer short-term shelter, legal aid, and psychiatric support is governed by law. This is particularly crucial for women who have experienced violence and may commit other crimes.

Another key legislative act in the area of combating women's crime is the Criminal Code of the Kyrgyz Republic (2021), which contains articles aimed at strengthening responsibility for crimes against women and their rights. In particular, Article 154 provides for liability for rape, Article 155 – violent acts of a sexual nature, Article 156 – coercion to perform acts of a sexual nature, Article 157 – acts of a sexual nature with a child under the age of sixteen, Article 158 – lewd acts. The law provides for more severe penalties for crimes related to violence, sexual crimes, human trafficking and other offenses that often affect women. The establishment of specific penalties for these offenses is aimed at reducing crime and ensuring the protection of the most vulnerable groups of the population. It is important to note that the law also provides for penalties for the involvement of women in criminal activities, taking into account the socio-economic reasons that may influence women's criminal behaviour. This creates a comprehensive approach to reducing female crime.

Witness protection in the Kyrgyz Republic is a key component of ensuring the fairness and efficiency of the judicial process, as justice is largely dependent on the safety and protection of participants who may be at risk due to their participation in criminal proceedings. Participation in a crime investigation or testimony in court often puts witnesses and victims at risk from persons with an interest in the outcome of the case. To protect such participants, a number of regulations have been developed and adopted, among which the Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" (2006) is an important one. This law provides clear guidelines for ensuring the safety of witnesses, victims, experts and other persons involved in criminal proceedings. In particular, Article 6 entitled "Security Measures" defines the main methods of protection of participants in criminal proceedings. Security measures include personal protection, protection of housing and property, as well as the provision of special personal protective equipment, such as communication and alerting devices for quick response in case of a threat. In addition, this Article provides for the confidentiality of participants' personal data to limit access to their personal information and reduce the risk of data leakage that could put them at risk. If necessary, it provides for the relocation of participants to another place of residence for additional protection. Special protection includes the possibility of replacing documents with changes in personal data, which may even include a change of name or surname. In extreme cases, when the usual measures are insufficient, it is possible to change the appearance of the witness or to temporarily isolate him/her for the period of participation in court hearings.

Article 17, "Grounds for the Application of Security Measures" Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" (2006), specifies the conditions under which these measures may be applied. The grounds include real threats to the life or health of the witness, as well as possible damage to his or her property related to participation in criminal proceedings. According to this article, the application of such measures may be initiated on the basis of a written application of a witness who feels threatened or with the consent of a minor witness provided by his or her legal representatives. If new threat circumstances arise during the proceedings, security measures may be reviewed and adapted to the current situation. Such measures are important to ensure that witnesses and other participants can provide their testimony without fear or influence, which is essential for the objective and impartial administration of justice.

The legal framework of the Kyrgyz Republic regulating witness protection also provides for the obligation of state institutions to respond promptly to requests for protection. Law enforcement agencies, in particular, are obliged to provide resources to fulfil these tasks and ensure an adequate level of witness protection at all stages of the judicial process. In cooperation with the judiciary, they develop programs to provide long-term support to witnesses in criminal proceedings to prevent revictimisation and ensure their safety from the initial stages of investigation to the point of sentencing. Through this approach, the Kyrgyz Republic ensures the proper conditions for effective justice, protecting the rights of participants in the process, and promotes public confidence in the law enforcement system.

Combating women's crime in the Kyrgyz Republic is significantly complicated by numerous socio-cultural barriers. In a society with deep traditions and religious influence, women fulfil certain social roles, and this creates strong stereotypes and prejudice against women who break the law or even become victims of crime. These barriers affect not only the promotion of gender equality, but also the rehabilitation process of women prisoners.

Religious and traditional norms in Kyrgyzstan define society's expectations of women, assigning them the role of mother, wife and housewife. Kyrgyz legislation, such as the Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" (2006), aims to provide protection for participants in criminal proceedings, but in practice, the implementation of this law may be limited due to social attitudes and customs. Although the law provides for protection measures such as witness protection and confidentiality, ensuring effective protection of women in the context of public stigma and pressure remains a challenge. Society traditionally expects women to perform certain functions in the family. If she deviates from these

roles, she may be subject to social stigma, especially if she breaks the law. Studies show that women involved in criminal proceedings face difficulties in finding a job, integrating into society, and restoring family ties due to prejudice from the public. The Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" defines the main measures to protect witnesses and victims. It provides for the confidentiality of personal data, physical protection and, if necessary, a change of residence to ensure the safety of the witness. Despite this, in practice, women involved in criminal proceedings continue to face pressure due to socio-cultural norms, which makes protection less effective. For a deeper understanding of the impact of socio-cultural barriers, the Table 1 summarises the main obstacles.

Social and cultural barriers impacting women's rehabilitation in Kyrgyzstan include public condemnation due to traditional norms, the dominance of religious values restricting gender equality, employment discrimination against women with criminal records, and family pressure enforcing traditional roles, all of which limit opportunities for independence and social reintegration. The reintegration and rehabilitation of women involved in criminal processes in Kyrgyzstan is complicated by a number of social and cultural barriers, including traditional and religious norms. Stigmatisation of women who have been in trouble with the law limits their opportunities for professional and personal development after release from prison. This makes it difficult to access resources for independent living, higher education and employment.

After serving their sentence, women face additional barriers, such as prejudice from employers who may have stereotypes about hiring them (Khamzina *et al.*, 2020). These barriers make it difficult to achieve financial independence and reduce the likelihood of relapse. A 2023 UN study found that one-third of women in Tajikistan experience domestic violence, indicating deep-seated gender stereotypes in the region. In Kyrgyzstan, according to the Ministry of Internal Affairs, 9,959 cases of domestic violence were registered in 2022, where 92% of victims were women (Bekmurzaev, 2024). These data highlight the scale of the problem and the need to implement effective rehabilitation and reintegration programs for women in conflict with the law.

In addition, a study conducted by UN Women (2022) and United Nations Fund for Population Activities found that in Eastern Partnership countries, including Ukraine, harmful stereotypes about the roles of women and men in society persist, affecting women's access to employment and leadership (Komircha, 2023). These stereotypes can increase the stigmatisation of women who have served their sentences and make it difficult for them to reintegrate into society.

Witness protection, confidentiality, and physical security are all outlined in the legal framework, which includes the Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" (2006). Nevertheless, these legal safeguards are frequently insufficient to offset the strong influence of societal attitudes. The effectiveness of the law is limited by society's emphasis on traditional gender roles since women who are involved in criminal proceedings – whether as witnesses, defendants, or victims – frequently face social scrutiny. A comprehensive strategy to improve the rehabilitation of women in Kyrgyzstan's criminal justice system should include educational programmes, legislative reform and public awareness-raising activities. Given the specific challenges faced by women in the criminal justice system, legislators should prioritise amending existing legislation to align it with international standards of gender equality. For example, the Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" should clarify the confidentiality provisions for female witnesses in domestic violence cases and strengthen physical protection measures, especially for women witnesses or victims.

Additionally, it is advisable to create a legal framework for alternative sentences, such as probation or community service, for women convicted of minor offences. A similar approach has been successfully implemented in the United Kingdom, which has shown to be effective in reducing recidivism by providing social support and developing life skills necessary for reintegration (Women in Prison, 2017). In practice, it is important to launch a state programme that will help change cultural perceptions of women returning to society after serving their sentence. This can be achieved through information campaigns that refute outdated stereotypes and support gender equality. An example is the initiatives of UN Women (2022) and United Nations Fund for Population Activities in the Eastern Partnership countries, which, through cooperation with local leaders and activists, strengthen positive social norms on equality.

It is also necessary to engage non-governmental organisations and international agencies to create local support networks to help women adapt to life after release. These organisations can provide financial and expert support to facilitate the reintegration process and reduce recidivism. A comprehensive approach will allow Kyrgyzstan to maintain a balance between cultural values and the protection of women's rights, contributing to their rehabilitation and the development of an inclusive society.

In order to ensure the safety of those involved in criminal proceedings and to facilitate justice, witness protection is a crucial component of the legal system. A number of institutional procedures and programs are in place in the Kyrgyz Republic to support witnesses, particularly those who might be threatened as a result of their involvement in criminal proceedings. The State Programme's to Ensure the Safety of Witnesses, Victims and Other Participants in Criminal Proceedings for 2014-2016 (2014) execution was a crucial step in developing a thorough witness protection system, even if it is no longer in effect. The program's goal was to shield witnesses from psychological and bodily harm. Its primary measures included: safeguarding witnesses, their residences, and their belongings; offering specialised personal protective equipment; altering witness contact information and license plates; replacing personal documents and, if required, changing one's appearance; and offering financial assistance in the event that a witness is killed or suffers physical harm. Non-governmental groups, in addition to official actions, are crucial in safeguarding the rights of witnesses by offering them legal, psychological, and counselling help, such as the Legal Clinic Adilet, which provides free legal consultations, and the Civil Society Support Centre, which offers counselling sessions to help witnesses manage stress and trauma related to their involvement in criminal proceedings (Tkachenko, 2023).

To ensure more effective protection and support for women in the Kyrgyz criminal justice system, legislative and social changes are needed. In particular, it is recommended

to adapt laws to international standards such as the Bangkok Rules (Penal Reform International, 2019). It is important to supplement the Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" (2006) with provisions guaranteeing confidentiality and physical security for female witnesses, especially in cases of gender-based violence. This will help protect witnesses from psychological and physical pressure.

Practical measures should include state rehabilitation programmes for women returning to society after serving their sentence. For example, in Norway, women are offered training programmes to acquire vocational skills, which significantly reduces recidivism and facilitates their social integration. It is also important to conduct information campaigns to combat stereotypes about women who have broken the law and to raise awareness of gender issues among law enforcement officials. In Ukraine, such initiatives, supported by UN Women (2022) and United Nations Fund for Population Activities, help to change cultural attitudes and promote tolerance and respect for women's rights. To ensure the proper implementation of these measures, it is important to expand financial support through the involvement of international donors, such as the World Bank or the United Nations Development Programme, which will help improve witness protection infrastructure and rehabilitation programmes. To ensure effective cooperation between governmental and non-governmental organisations, it is proposed to establish an inter-agency coordination council to ensure communication between law enforcement agencies, social services and non-governmental organisations. Such a council could become a key link in coordinating efforts to create a comprehensive system of support for women in the criminal process, which would help reduce recidivism and increase public confidence in the legal system of Kyrgyzstan. Table 1 summarises the main measures to improve approaches to combating women's crime and protecting witnesses' rights, including key areas of improvement, objectives and expected results.

Table 1. Key measures for enhancing approaches to combating women's crime and protecting witness rights

Key area of improvement	Goal of enhancement	Expected outcomes
Legislative adaptation	Alignment with international standards	Improved legal protection for women and witnesses
Rehabilitation programs for women	Psychological support and social reintegration	Reduced recidivism rates among women
Personnel training	Professional training on gender sensitivity	Improved quality of support and protection
Increased funding	Additional resources for protective programs	Sustainable funding for witness protection
Coordination between state and non-governmental organisations	Enhanced effectiveness through collaboration	Strengthened protective mechanisms
Increased transparency	Open reports and public consultations	Increased public trust

Source: compiled by the authors

To ensure the effective protection and support of women in the criminal justice system in Kyrgyzstan, legislative and social changes are needed, supported by international and national experience. The main recommendation is to bring legislation in line with the Bangkok Rules, in particular to expand the provisions of the Law of the Kyrgyz Republic No. 170 "On Protection of the Rights of Participants in Criminal Proceedings" (2006) in terms of protection of women witnesses. The articles regulating witness protection should include measures to ensure their confidentiality and physical safety, especially in cases involving gender-based violence. Similar legal provisions have been effective in the United Kingdom, where measures to protect female witnesses have reduced the level of witness intimidation in such cases.

In addition, it is recommended to introduce specialised rehabilitation programmes for women convicted of minor offences. Women in Prison (2017) programme in the United Kingdom is highly effective in providing psychological support and developing social skills necessary for women's further integration into society. The programme's statistics show that after rehabilitation, the recidivism rate decreases as women gain the skills to return to normal life. Training for law enforcement and judicial officials with a focus on gender sensitivity is also critical to improving support and protection of women in the criminal justice process. In EU countries where gender-sensitivity training is regularly provided; law enforcement officers provide more comprehensive and tailored support to women witnesses and victims. For the successful implementation of these measures, it is important to increase funding for witness protection and rehabilitation programmes, in particular through the involvement of international donors such as the World Bank and the United Nations Development Programme. The experience of Eastern Europe shows that financial support for rehabilitation programmes for women increases their effectiveness and contributes to witness safety. Establishing an inter-agency coordination council that brings together government agencies and non-governmental organisations would help to coordinate witness protection efforts more effectively. Such a council, based on the experience of European countries, would help to strengthen witness protection mechanisms through better cooperation between different organisations. A final critical step is to increase the transparency of state institutions through regular public reports and public consultations. This approach, which has been successful in Scandinavian countries, increases public trust in the legal system. The proposed measures will contribute to improving the justice system in Kyrgyzstan, strengthening gender equality and creating a safe, just society that takes into account the special needs of women in the criminal process.

Discussion

There are similarities and variations between the United Nations Office on Drugs and Crime (2022) material and this study's approaches to gender-related issues of crime among

women and witness protection. Both highlight how socioeconomic issues contribute to women's unique roles in criminal activity and how crucial it is to take gender needs into account in rehabilitation programs in order to lower recidivism rates. In addition, the UN study concentrates on how to include a gender perspective into the criminal justice system, especially when it comes to international collaboration and the battle against organised crime. In order to examine the roles of women in criminal organisations, the UN also highlights the necessity of gender data, which are absent from this study. Thus, the UN considers the issue through a global lens, and this study focuses on the rehabilitation of women criminals and witness protection in a national context.

The information in the report of the United Nations Division for the Advancement of Women and United Nations Office on Drugs and Crime (2005) and this study share many similarities, but they also differ greatly. The focus on creating efficient procedures to prevent crimes against women and protect women's rights in the legal system is one of the main parallels. The significance of establishing a legislative framework that considers women's unique needs in terms of social and legal support, as well as guaranteeing appropriate access to justice, is emphasised in both agreements. At the same time, the "Good practices" report primarily addresses issues of inter-agency coordination of efforts to achieve results in the fight against violence, access to support for women who are victims of violence, and protecting women's rights in the context of gender-based violence. The peculiarities of crimes committed by women and the characteristics of their social rehabilitation are the main topics of this study. Gender-based violence is also examined in the "Good practices" report within the larger framework of human rights, including international commitments like the Convention on the Elimination of All Forms of Discrimination Against Women (1979). These studies focus on local aspects of crime among women, paying attention to specific socio-economic and cultural factors that affect women in the legal system.

N. Campaniello (2019) conducted study on the rise in female criminal activity and the gender disparity in crime rates. She pointed out that although men have historically made up the majority of the criminal population, more women are now involved in crime as a result of broader socioeconomic shifts including women's increased employment and shifting social mores. The impact of social and economic elements on women's criminal behaviour was acknowledged in both researches, especially when it came to economic vulnerability. However, although N. Campaniello (2019) carried out a broad analysis concentrating on economic issues across countries, this study concentrated on particular socio-cultural hurdles in the Kyrgyz Republic, such as traditional and religious norms impacting attitudes towards women who breach the law. This study also looked at local crime statistics in Kyrgyzstan to analyse the main types of crime among women, while N. Campaniello (2019) used a comparative analysis of international trends, highlighting the dominance of property crimes among women. In terms of recommendations, this study proposed concrete solutions to improve the Kyrgyz legal system and overcome cultural stereotypes. Instead, N. Campaniello (2019) focused on economic interventions such as education and working conditions as ways to reduce female crime, but did not propose specific legal measures. Thus, both studies emphasised the rise of female crime under the influence of socio-economic factors, but this study focused on the Kyrgyz context, while author provided a more general international perspective.

M.J. Leote de Carvalho *et al.* (2023) focused on the impact of age and gender in the development of criminal behaviour while examining crime among women and girls. In order to determine the traits of female criminality at various life stages and the evolution of femininity in various social and cultural situations, they examined interviews with members of three distinct age groups: children, teenagers, and adult women. The emphasis was on these women's perceptions of their actions and the ways in which social context shaped their decisions. This study also examines crime among women, but focuses on other aspects, namely the impact of socioeconomic factors and the need for rehabilitation and resocialisation to reduce recidivism. Both studies point to the importance of understanding the social and cultural context, but the study by M.J. Leote de Carvalho *et al.* (2023) focuses more on gender roles and cultural expectations in women's criminal practices, while this study emphasises the need to develop comprehensive rehabilitation programs that take into account the specifics of female crime and its social determinants. Both studies are similar in that they emphasise the importance of women's integration after serving their sentence and the need for tailored approaches to women's crime that take into account their social and psychological needs. At the same time, the difference is that the study of authors more analyses the gender identity and self-determination processes of women in the context of criminal activity, while this study focuses on social reintegration and the creation of programs aimed at reducing recidivism among women facing socio-economic difficulties.

In his historical analysis of the problem of female crime, M. van der Heijden (2021) focused on the social factors and gender stereotypes that shaped women's criminal behaviour, especially in urban and rural areas. This study likewise examines gender issues, but it does so in a contemporary setting, emphasising social assistance and rehabilitation initiatives for women. Both studies look at how socioeconomic factors affect female criminality. M. van der Heijden (2021) examines how social isolation and migration raise migrant women's likelihood of committing crimes. However, contemporary rehabilitation and social integration strategies receive more focus in this study. M. van der Heijden (2021) emphasised the importance of research on migration and the gender context in the criminal system, while this study focuses on adapting legislation to international norms, such as the Bangkok Rules, to support women after serving their sentences.

F. Estrada *et al.* (2019) looked at how female criminality has changed over time, specifically in terms of media coverage and crime statistics. The authors examined how the media responded to shifts in the proportion of women convicted of different offenses. Although it concentrated primarily on the impact of social and cultural factors, this study also examined the gender dimensions of crime. The focus on gender disparities in crime and the impact of societal preconceptions is where the research is similar. Both studies demonstrate how society and the media respond differently to crimes committed by men and women. The difference is that the study by F. Estrada *et al.* (2019) and colleagues takes a historical perspective with an emphasis on Swedish statistics, while this study focuses on the contemporary realities and rehabilitation of women in the criminal system.

This study and the Committee of Ministers of the Council of Europe discuss the importance of witness protection for ensuring the effectiveness of the judicial system and combating crime (Recommendation of the…, 2005). Both documents emphasise the need for special measures to reduce the risks of intimidation and violence against witnesses, especially in cases of organised crime and terrorism. This study focuses on the specific needs of witnesses in the Kyrgyz Republic, proposing specific measures for the coordination of public authorities and the rehabilitation of witnesses. The Council of Europe Recommendation is a general document aimed at member states and provides universal protection standards that can be adapted to national conditions. The main difference is the level of detail: this study is focused on the specifics of the Kyrgyz Republic and additionally takes into account gender aspects, while the Council of Europe Recommendation offers general principles for international application.

A.F. Siddiq and M.I. Barus (2024) study focused on protecting witnesses in international criminal trials, especially those involving transnational crimes. It underlined how important it is to safeguard witnesses from dangers associated with their involvement in court cases, especially given how frequently criminal networks intimidate them. The significance of international cooperation in establishing a secure environment for witnesses was also emphasised. The focus on protecting witnesses and the dangers of intimidation and threats that can keep witnesses from providing truthful testimony are similarities with this study. Both research stress how important it is to have efficient defences. The difference is that A.F. Siddiq and M.I. Barus (2024) focus on the problems of international crimes and witness protection in Indonesia, while this study examines the issue of female crime and witness protection in the national context of the Kyrgyz Republic.

G.D. Makanje (2020) study focused on the challenges of protecting vulnerable witnesses in Malawi's criminal justice system, particularly under limited resources. She highlighted the role of judges in implementing protective measures such as screens, restrictions on cross-examination, and preventing personal cross-examination by defendants, especially in cases of sexual assault. The study underscored the impact of Malawi's resource constraints, lack of legal representation, and cultural barriers. In comparison, the current research also addresses vulnerable witness protection but within a potentially broader legal framework. Both studies emphasise special protective measures to prevent further victimisation of witnesses. However, G.D. Makanje's (2020) work is specific to Malawi's limitations, focusing on judicial efforts to compensate for resource shortages, while the present research could encompass structured institutional support and regulatory reforms.

R. Pulvirenti (2024) examined the need for witness preparation in international criminal trials, particularly within the International Criminal Court framework. R. Pulvirenti (2024) focused on balancing witness protection with the defendant's right to a fair trial, analysing case law and the International Criminal Court's obligations under Article 68. She argued that witness preparation was essential not only for effective testimony but as a duty to safeguard witness well-being, especially in cases involving vulnerable individuals. In comparison, the current study also addressed witness protection but differed in scope, focusing more on national frameworks or particular types of crime, such as transnational or gender-based offenses. While both studies highlighted the importance of witness rights and psychological support, authors' work concentrated on institutional reforms within the International Criminal Court, aiming to formalise witness preparation as a procedural requirement. The studies shared a common concern for witness well-being, recognising the impact of judicial processes on witnesses' mental health. However, R. Pulvirenti's (2024) work proposed systemic changes at an international level, while the current study emphasised practical protection measures relevant to specific national contexts and types of crime.

The International Criminal Court Sixth Judicial Seminar examined several approaches and best practices with an emphasis on victim and witness protection (Securing meaningful justice…, 2024). The significance of protecting witnesses and victims during legal proceedings is emphasised in both the lecture and the ongoing study. The current study's emphasis on witness safety and secrecy is consistent with the International Criminal Court's emphasis on victims' rights, procedural participation, and reparations. Although victim protection and reparations are given top priority in both the seminar and the research, the International Criminal Court takes a more comprehensive approach, tackling global crimes with a reparative framework that includes restitution and rehabilitation. However, the majority of the current study focuses on particular national initiatives for crime prevention and witness safety inside its legal system. In summary, while both focus on victim and witness support, the International Criminal Court's seminar covers a global, wide-ranging perspective, whereas the current research is more narrowly centred on national witness protection mechanisms.

Compared to this study, the work of J. Metson and D. Willmott (2024) focused on the attitude of the British public to special measures to protect vulnerable witnesses during trials. The authors examined public views on the balance between the protection of the rights of victims and the accused within the criminal system in England and Wales, particularly in the light of special measures for vulnerable witnesses. A distinctive feature of this study is the investigation of public attitudes through the new Attitudes Towards Vulnerable Victims Scale, which measures respondents' preference for witness care versus the rights of the accused. Both studies drew attention to the need to ensure a balance between the protection of victims and the rights of the accused. However, J. Metson and D. Willmott (2024) study focused on demographic and psychological factors influencing public attitudes toward special measures for vulnerable witnesses, such as age, educational attainment, and fairness of procedural justice.

Comparison of this study with the work of I.M. Tkachenko (2023) shows common features and differences. Both studies point to socio-economic factors as the causes of women's crime and emphasise the need for post-incarceration rehabilitation programs for women to reduce recidivism. However, this study also covers the issue of witness rights protection, which is not key in the study of I.M. Tkachenko (2023), and emphasises the harmonisation of legislation with international standards. Researcher focuses more on internal socio-economic aspects, and this study reveals the need for additional research to assess the effectiveness of witness protection and reintegration.

The study by O.L. Dulsky (2024) and this one has some common aspects and differences. Both studies focus on ensuring an effective criminal process, emphasising the

importance of equality of arms in the collection of evidence. Author explores the technical, forensic and tactical aspects of the defence's collection of evidence through the initiation of witness interviews. His research is aimed at enhancing the role of the defence counsel in the collection of evidence, justifying the importance of technical means and techniques for the effective interrogation of witnesses. This study, on the other hand, has a broader context, focusing not only on forensic support, but also on the issues of women's crime and witness protection, especially from an international perspective. It analyses the experience of other countries, such as the United Kingdom and Norway, and provides recommendations for the Kyrgyz Republic. Unlike O.L. Dulsky (2024) study, the current one covers gender aspects and approaches to the rehabilitation of women in the criminal justice system, while researcher's study focused on technical and tactical elements and practical aspects of interrogation within Ukraine.

S.I. Puhach (2024) study and the present study have certain points of contact and differences. Both analyse the factors that influence women's criminal behaviour. S.I. Puhach's (2024) study focuses on theories of crime determination (e.g., social disorganisation, cultural conflict, subcultures), while this study focuses on socio-economic, cultural and psychological factors that influence female offenders in Kyrgyzstan. Both acknowledge the importance of socio-economic factors, as author notes the impact of crises and inequality on female crime, while this study focuses on economic vulnerability as a factor in criminal behaviour. Both studies also emphasise the importance of social support for women. The main differences lie in their approaches: S.I. Puhach (2024) provides a general theoretical overview focused on the Ukrainian context, while this study focuses on applied measures of rehabilitation and witness protection in Kyrgyzstan, taking into account the specifics of local socio-cultural norms and legal frameworks.

Research by M.O. Evdokimova (2020) and this study have common features and differences. M.O. Evdokimova analyses female criminality in the field of economics, focusing on the legal and criminological aspects of economic offenses, as well as on measures of prevention and social adaptation of women after serving their sentence. This study, in turn, examines female criminality in Kyrgyzstan with an emphasis on socio-economic, cultural and psychological factors, including issues of witness protection and reforms in the legal system. Thus, although both studies focus on women's crime, they have a different focus. M.O. Evdokimova (2020) studies economic crimes, while this study covers a broader socio-legal context.

Look into this study differs from I. Serkevich and O. Bronevytska (2020) in several parts of the examination of female crime, but shares some characteristics with them. Both studies raise the problem of the increase in the level of female crime and study the causes and conditions that influence women's criminal behaviour. I. Serkevich and O. Bronevytska (2020) research focuses on the psychological aspects of female crime, examining factors that influence women's criminal behaviour, such as emotional instability, environmental dependence, and social disorganisation. This study, in contrast, focuses on the legal and social mechanisms aimed at the rehabilitation of women and the protection of witnesses in criminal trials in Kyrgyzstan, including the analysis of legal provisions and the influence of socio-cultural norms. A common theme is the importance of social support and rehabilitation in reducing the risk of recidivism among women returning to society after a sentence. However, while I. Serkevich and O. Bronevytska (2020) focus on the individual psychological characteristics of female criminals, this study emphasises the need for legal reforms and support to create a safe environment for women involved in justice.

Research by T. Prodan (2020) and this study have common features. In order to prevent violent crime among women, T. Prodan (2020) proposes national, legal and individual measures, including the advancement of women's social status, the influence of religion and gender equality. She emphasises the role of spirituality as a preventive factor. On the other hand, this study focuses on witness protection and rehabilitation of women in Kyrgyzstan who have already been victims of crime. Its goal is to make laws better and to empower women to work in the legal system to reduce recidivism. Thus, T. Prodan (2020) focuses on nationwide crime prevention measures, while this study focuses on the socio-legal mechanisms that assist women in the criminal process.

V. Khashev and A. Chorna (2021) analysed in detail the criminological characteristics of female crime in Ukraine, focusing on specific types of crimes such as theft, fraud and drug crimes, which are the most common among women. They noted that these crimes are mostly driven by socio-economic factors such as low income, economic instability and difficult life circumstances. V. Khashev and A. Chorna (2021) also highlighted the peculiarity of female crime, particularly its dependence on gender roles in society, which often drives women to commit crimes due to social and economic challenges. This study, unlike authors analysis, covers a wider range of issues related not only to the specifics of female crime, but also to the need for legal protection and socio-legal support mechanisms. The study focuses on the specifics of the protection of witness rights in criminal trials in Kyrgyzstan, in particular on the development of rehabilitation and social integration programs for women returning to society after serving their sentence.

Although various studies address the topics of female criminality, witness protection, and gender-sensitive approaches in the criminal justice system, each focuses on unique aspects depending on the context and objectives. Studies agree on the importance of addressing the socio-economic and cultural factors that influence women's involvement in crime and ensuring their protection within the legal system. Both international and national frameworks emphasise the need for tailored rehabilitation programs that reduce recidivism, protect vulnerable witnesses and support reintegration. However, the scope and recommendations differ: international studies often focus on global best practices and joint interventions, while national studies such as this offer context-specific solutions aimed at addressing specific legislative and cultural challenges. This highlights the need to adapt policies to specific socio-cultural environments, including the universal principles of effective crime prevention and witness protection.

Conclusions

This Article analysed modern approaches to countering women's crime and protecting the rights of witnesses in Kyrgyzstan. In the course of the study, a comparative analysis of international experience (in particular, Great Britain and Norway) was carried out, and the legal framework and practices of witness protection and support for women

in the criminal system of Kyrgyzstan were investigated, which allowed to identify key gaps and opportunities for improvement.

The main stages of the research included the analysis of the historical context of the problem, the specifics of women's crime, existing programs of rehabilitation and support, as well as legal regulation. The results showed that the increase in female crime in Kyrgyzstan is associated with low levels of social support, economic vulnerability and the influence of traditional gender norms. The study also found limited effectiveness of existing witness protection programs and support for women in the legal system, which highlights the need to improve the legal framework to ensure greater gender equality and social support.

The obtained results indicate the importance of harmonising local laws with international standards, such as the Bangkok Rules, as well as the need to expand social support and rehabilitation programs for women, which will contribute to reducing the rate of recidivism and effective social integration. This study is important for the further development of theoretical and practical approaches to understanding the specifics of female crime and ensuring the protection of witness rights, taking into account the peculiarities of the socio-cultural context of Kyrgyzstan.

The limitations of this study were insufficient access to data on the specifics of crime among women, as well as insufficient funding of support programs. Future research could focus on analysing the impact of cultural change on the rehabilitation processes of female offenders and the role of social services in this area. Further research can focus on the analysis of the impact of cultural changes on the rehabilitation processes of female offenders, as well as on the role of social services in providing support to this category of persons.

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Conflict of interest

None.

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Пріоритети державної безпеки: погляди на сучасні підходи до протидії жіночій злочинності та захисту прав свідків

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Анотація. Це дослідження було проведено з метою аналізу сучасних підходів до боротьби з жіночою злочинністю та захисту прав свідків у Киргизькій Республіці з акцентом на історичному контексті, правовому регулюванні та наявних програмах підтримки. Методологія дослідження включала проведення порівняльного аналізу міжнародного досвіду, зокрема практики Великої Британії та Норвегії, а також аналіз судової практики в Киргизстані за період з 2020 по 2023 роки. Дослідження також підкреслило важливість впровадження реабілітаційних програм, які враховують соціально-економічні фактори, що впливають на злочинну поведінку жінок. Встановлено, що зростання рівня злочинності серед жінок пов'язане з низьким рівнем соціальної підтримки, економічною вразливістю та тиском традиційних ґендерних норм. Отримані результати свідчать про необхідність удосконалення існуючих програм захисту прав свідків та підтримки жінок у кримінальному судочинстві, а також про необхідність змін у законодавстві для забезпечення більшої ґендерної рівності та соціальної підтримки. Крім того, дослідження підкреслює актуальність вирішення системних проблем, які сприяють ґендерній нерівності, сприяючи створенню більш справедливого та сприятливого середовища. Важливими є також зміни в законодавчій базі, які можуть включати прийняття нових законів та внесення змін до існуючих з метою покращення підтримки жінок та свідків у кримінальних провадженняхх

Ключові слова: ґендерно-орієнтовані програми; правові реформи; ризик рецидиву; інституційна підтримка; механізми реабілітації та відшкодування

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Public law disputes in the field of public service: Interdisciplinary approaches to prevention and settlement

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Abstract. The relevance of this study was conditioned by the need to improve the legal regulation of service disputes in the civil service system against the background of public administration reforms. The purpose of this study was to determine the legal nature of service disputes, their specific features, and the procedure for their resolution within the administrative process. The methodological framework of the study was formed by comparative legal, formal-logical, dialectical, historical-legal, and analytical approaches, which enabled a comprehensive investigation of the legal framework, modern scientific approaches, and practices of resolving service disputes. The study examined the essence of service disputes and their legal nature and found that they represent a type of public law disputes arising in the field of public service. The study analysed the legal grounds and parties to disputes, specifically, disputes related to disciplinary sanctions and termination of civil service contracts. The study found that service disputes arise due to unresolved disagreements between a civil servant and a public authority or its representative regarding the legality of decisions or actions that violate the rights of the employee. Such disputes often concern both the validity of disciplinary sanctions and the legality of dismissal. The study analysed the mechanisms for consideration of such

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disputes stipulated by administrative legislation and identified the key stages and procedural forms of resolution of such disputes, including disciplinary proceedings. The study identified key procedures that should ensure fair consideration of disputes, as well as the possibility of appealing against decisions of disciplinary commissions. The analysis revealed that the effectiveness of consideration of service disputes depends heavily on compliance with procedural rules and ensuring access to justice for civil servants. Based on the findings, the study concluded that service disputes have their unique law enforcement specifics within the administrative process and are a significant tool for legal protection of the rights of civil servants. The practical value of the study lies in the possibility of applying the findings to improve the mechanisms for resolving public law disputes in the field of civil service, which will contribute to the efficiency of functioning of public authorities

Keywords: civil servant; legal conflict of a public nature; service relations; service dispute; labour dispute; state body; dispute about a right

Introduction

The relevance of the subject related to the reform of the civil service in Ukraine according to the requirements of the Association Agreement with the European Union is determined by the critical need to adapt national standards to European ones. Considering the dynamic changes in the political and economic spheres observed in Ukraine, the study of this topic is crucial for 2024. The implementation of the planned reforms will not only affect the efficiency of public administration but will also help to increase public trust in state institutions. The transition to new standards requires a systematic approach covering all aspects of the civil service. Changes in the civil service are directly related to the functioning of public administration, and therefore their proper implementation should be a key to Ukraine's stable development in the context of European integration. Successful adaptation to European norms will help improve the quality of public services, which will ensure transparency and efficiency in public administration. The Association Agreement (2014) set the task of reforming the civil service institution in Ukraine to bring it in line with EU standards. One of the institutions of service law is a service dispute (Order of the Cabinet of Ministers of Ukraine No. 831, 2021).

Changes to the legislation governing the civil service should be accompanied by concrete steps to improve the mechanisms for resolving service disputes. Without this process, it is unrealistic to hope for positive outcomes of the reforms. Notably, even minor changes in legal regulation can have far-reaching consequences. Therefore, it is necessary to constantly monitor and evaluate the effects of innovations on civil service practice to promptly adjust the course of reforms based on the data obtained and feedback from the participants in the process. Thus, a comprehensive analysis of the institution of service disputes in Ukraine will be a significant step towards the modernisation of the civil service, which will contribute to the country's stable development in the context of European integration. The findings of the present study can serve as a basis for formulating practical recommendations aimed at improving legal regulation in the field of public administration.

The analysis of the civil service institution in Ukraine in the context of its reform requires a comprehensive consideration of the existing problems and challenges faced by this area. In the modern environment, when the country is at the stage of active European integration, there is a need not only to introduce new standards, but also to change the very approaches to management practices. Specifically, it is important to create conditions for the proper functioning of civil servants who must meet modern requirements. Civil service reform, as B.V. Kovalenko (2020) pointed out, positively affects the development of public institutions and the strengthening of democracy. Increasing the level of professionalism of civil servants, as well as ensuring their rights and freedoms, are key elements for the implementation of effective governance.

Furthermore, when developing mechanisms for protecting the rights of civil servants, it is vital to consider international practices, which shows that transparency and accountability in public administration are the basis for building trust between citizens and the state. For example, in European countries, where the adaptation of the civil service to European standards has been more successful, there has been an increase in trust in public authorities and an increase in the efficiency of public service delivery. In Ukraine, there is also a need to introduce new forms of work, such as electronic services and open data, which ensure greater transparency of public authorities. Estonia's practices show that e-governance not only improves the quality of public service delivery but also contributes to public trust in the state and reduces corruption, which is especially significant for Ukraine in the context of European integration processes (Volik *et al.*, 2019).

Numerous studies, such as V. Davydenko's (2023), focus on the implementation of European standards in Ukraine's national policy. The researcher emphasised that the adaptation of the civil service system is a key element in the European integration, as it affects all aspects of public administration. This creates conditions for improving the efficiency of government functions. In the context of studying the reforms, O. Fendo (2021) emphasised the significance of professional development of civil servants, noting that their professional level directly affects the quality of public services. V. Lypkan and O.H. Movchun (2017) pointed out that insufficient attention to legal mechanisms for resolving service disputes can be a serious obstacle to implementing effective changes in the civil service system. This indicates the need to develop a corresponding legal framework. However, T. Pletnova (2023) did not address the issue of integrating novel approaches to the legal regulation of public service relations, which indicates the need for further exploration of this aspect. Thus, there is a clear need for a comprehensive approach to reform covering all levels of the civil service, considering the European practices and national needs.

The purpose of the present study was to provide a comprehensive investigation of the institution of a service dispute within the framework of reforming the civil service system, with a special focus on determining its legal nature and mechanisms for protecting the rights of civil servants. During the analysis, the study examined the specific features of service disputes and their role in ensuring fairness

and legality in the activities of state bodies. The objectives of the study were to investigate in detail the new requirements for the civil service arising in the context of European integration processes; to systematically analyse the legal mechanisms governing the procedures for resolving service disputes; to develop recommendations for improving the legislative acts regulating activities in the field of civil service. This will contribute to the development of effective tools for protecting the rights of civil servants and improving the overall quality of management processes.

Literature review

Public law dispute in the field of civil service has been the subject of investigations by many researchers. In the context of European integration, the principles of service law in the countries of the European Union have been considered. The dictionary by T.O. Kolomoets and V.K. Kolpakova (2017) presented the terminology of service law of Ukraine in a systematic manner. I.E. Chernyahovych (2019) identified the specific features of public law disputes in the field of public service relations based on the development of modern concepts of public administration. The researcher noted that the defining feature of a public law dispute in the field of public service relations as a subject matter is the scope of its occurrence – legal relations aimed at developing the public service system or maintaining it in an up-to-date state. N. Kaida (2024) analysed the concept of mobbing in the public service, focusing on the specifics of determining the jurisdiction of the dispute. The study emphasised that the significance of a clear delineation of jurisdictional powers is critical for the effective resolution of mobbing cases. The researcher pointed out that imperfect legislation and the lack of adequate remedies can lead to major complications in resolving workplace harassment disputes. The principal conclusion is that to ensure fairness in relations between civil servants and state bodies, it is necessary to improve the legal framework and develop clear procedures for handling such cases.

N.T. Pak and I.A. Verzun (2022) investigated the features of conflicts in public administration and characterised their types. T. Kalenichenko *et al.* (2021) revealed the primary theoretical issues of conflicts and their management, analysed the specifics of conflicts in the public service. The researchers reviewed the best practices of conflict management in the public service of other countries, as well as the key approaches to conflict resolution according to the current legislation of Ukraine.

M. Bruns and T. Steen (2007) analysed the legal regulation of service disputes in the context of effective public administration in the public sector of the European Union and Canada. The researchers focused on the mechanisms for protecting the rights of civil servants, emphasising that proper legal regulation is essential to ensure transparency and fairness in governance. The researchers examined the specific features of administrative procedures relating to service disputes and concluded that effective settlement of such disputes contributes to increasing public trust in government agencies. J. Bourgault (2011) analysed international practices in the regulation of service relations, pointing out the significance of adapting European standards to national practices to improve the quality of public services. These studies emphasised that for the successful functioning of public administration, it is necessary to create a clear legal framework governing service disputes.

I.V. Kolosov (2018) explored the concept of a service dispute as a type of public law dispute. The researcher considered a service dispute as a type of legal conflict. I.V. Kolosov (2018) found that the subject matter of a service dispute is to establish the legality of the parties to the dispute's behaviour in public service relations. The researcher examined the differences between administrative and labour relations in the context of the problem of procedural settlement of public service disputes. R.B. Braams *et al.* (2022) examined in detail the mechanisms for resolving service disputes in the context of civil service reform. R.B. Braams *et al.* (2022) focused on the analysis of legal mechanisms for resolving conflicts between civil servants and public authorities, emphasising that clear legal regulation underlies the effective functioning of the public administration system. The researchers examined the effects of public sector reforms on the resolution of service disputes, emphasising the significance of integrating novel approaches to ensure transparency and accountability in government structures.

O.G. Sereda and Yu.M. Burnyagina (2023) pointed out the need to perceive civil servants in a holistic manner, primarily as employees. Such an approach will lead to the humanisation of the civil service, the content of which is an effective and socially oriented civil service management system. The researchers noted that improvement of the civil service should be aimed at creating conditions for effective performance of labour functions by civil servants. O.I. Mykolenko and O.M. Mykolenko (2021) revealed current trends in the field of legal liability of public servants and service law of Ukraine. The researchers pointed out that the inconsistency and incompleteness of national legislation on public service issues adversely affects the effectiveness of legal liability of public servants.

Materials and methods

The analysis of Ukrainian legislation regulating administrative procedures played a key role in shaping the legal framework of this study. The primary focus was on the new Law of Ukraine No. 2073-IX (2022), which defines the procedure for consideration of administrative cases and lays the foundation for fair settlement of conflicts in the civil service. The law establishes the principles of openness, proportionality, and objectivity in administrative decision-making, which ensures a balance between the rights of citizens and the powers of administrative bodies. Furthermore, the study used materials of the Supreme Administrative Court of Ukraine. These materials helped to understand the specifics of law enforcement and the effectiveness of mechanisms for protecting the rights of civil servants and emphasise the significance of adapting national standards to European ones (Information letter of the Higher Administrative Court No. 753/11/13-10, 2010). Thus, the research sources formed a comprehensive approach to the analysis of service disputes in the context of reforming the civil service system in Ukraine. The work with the current administrative procedure legislation and the practice of implementing the regulatory provisions under consideration necessitated the use of the analytical method of research. The hermeneutical method was employed to interpret the different content concepts of "service dispute". The method of legal-technical analysis helped to put forward proposals for improving the administrative procedural legislation relating to the service dispute under consideration. The

statistical method was employed to formulate and substantiate the conclusions on the research topic.

The methodological framework and information and legal framework for the study of a public law dispute in the field of civil service in Ukraine were formed by general scientific and special methods of cognition, which included formal-logical, historical-legal, socio-legal, comparative legal, dialectical, statistical, as well as intersectoral, interdisciplinary, and systemic methods. The logic of their use was based on the need to integrate the methodology of using such branches of law as constitutional, administrative, labour, and information law, which are used in the legal regulation of the civil service, formation of the legal status of civil servants and officials, and endowment with relevant rights, legitimate interests and duties in the performance of official functions. The formal logical method was actively used in analysing the definitions of a service dispute, procedural remedies, and criteria for assessing a service dispute presented in science; and in formulating an approach to the problematic issues of the research topic.

The comparative method was used to compare a service dispute with administrative and labour disputes, as well as international practices in resolving such disputes, primarily in the European Union. The historical legal method helped to explore the evolution of the formalisation of public service relations at distinct stages of development of legislation and legal science. The systemic-structural method enabled the investigation of the structure of a service dispute, helped to identify its primary elements and show the objectively existing relationship between them. Specifically, this approach helped to determine the interaction between the parties to the dispute, the mechanisms of conflict emergence and their stages of development. It also facilitated the analysis of the legal rules governing service disputes and their effects on the outcome of the settlement. This approach provided a holistic understanding of the legal nature of disputes and possible ways to resolve them, which is significant for improving the legal framework and increasing the efficiency of the dispute resolution process. The systemic method helped to consider the term "dispute" in the field of public service relations in the system of justice; to investigate the procedural means of ensuring the above requirement as a separate system of various types of preventive and compensatory procedural means. Using the method of system-structural analysis, the study gained knowledge about the essence and content of the resolution of a service dispute at various stages of the administrative process.

The axiological approach was employed to investigate the value of the analysed procedural means, which is a synthesised category which includes elements of law and morality. The instrumental and technological approaches were employed in analysing procedural means from the standpoint of their activity-useful nature. The application of these methods and methodological approaches helped to perform a comprehensive analysis of the subject matter of the study, to examine the elements of a service dispute in their interrelationships and interdependencies, to identify certain trends, and to draw generalisations and conclusions. In exploring the complex of problems raised in the study, the study made extensive use of primarily general scientific methods, among which a special role was played by systemic, structural-functional, dialectical, and historical methods. The relevance of these methods was conditioned by the breadth of cognitive possibilities they offer for solving the research tasks. In the aggregate of the general philosophical approaches to cognition applied, the dialectical-materialist approach was the leading one, which helped to interconnect various manifestations of the properties of the administrative process in relation to disputes in the field of civil service, the balance of ensuring public and private interests and other regulatory institutions; substantive and formal aspects of the issues under study, etc.

Results and discussion

Key features of service disputes. In relations associated with admission to, performance of, and termination of civil service, disagreements may arise between the parties to the relationship due to different understandings of subjective rights, obligations, legally significant interests, and ways of their implementation. If the disagreement cannot be resolved by the disputing parties, it is referred to the competent authorities for resolution through the procedures established by law. In civil service legislation, the term "dispute" first appeared in Law of Ukraine No. 889-VIII, 2015). The legislator mentions only individual service disputes. The previous Law of Ukraine No. 3723-XII "On Civil Service" (1993) did not contain special rules governing dispute resolution in the civil service, and therefore the rules of labour and civil procedure legislation applied to these relations.

Service disputes have the characteristic features of a legal dispute: a specific subject of disagreement, which is the scope of legal rights of participants in concrete social relations; resolution or settlement of relevant disagreements in formalised procedural and legal forms or legally binding or recommended procedures. Some researchers argue for the validity of recognising a service dispute as an independent form of administrative legal dispute, arguing that disagreements between representatives of official legal relations regarding the violation or termination of service in case of a real or alleged violation of the rights of one party to an official contract by the other party during the period of its validity are determined by the level of failure to define the public functions of a state body within its administrative competence.

Service disputes arise as a result of the settlement of legal relations in the field of public administration, i.e., from relations of authority and subordination, where the participation of a state body or its authorised representative is mandatory. In legal science, the term "service dispute" is the subject of research mainly by specialists in the field of administrative law. There are differing points of view in the literature on service disputes in the civil service. However, overall, a service dispute is considered as a type of administrative legal dispute, as it arises from public law relations of the civil service. The Strategy of State Reform Administration of Ukraine for 2022-2025 (2021) states that one of the key conditions for the successful development of the civil service is ensuring the integrity of civil servants. It is planned to continue developing and implementing modern tools that help minimise the risks associated with unethical behaviour of civil servants and abuse of office.

The current situation regarding the duality of procedural orders for resolving service disputes in the practice of local general courts, different scientific approaches to understanding the essence and legal nature of disputes related to public service, and the legislator's attention to improving service and administrative procedural legislation

necessitate the investigation of the concept and content of service disputes. To summarise, service disputes arise as a result of differences in the understanding of rights and obligations between civil service entities. Such disputes have the characteristic features of a legal conflict, as they are resolved through formalised procedures, including with the involvement of competent authorities. The concept of a service dispute was officially introduced into Ukrainian legislation in 2015 and is considered a type of administrative legal dispute arising from public law relations. This underscores the significance of ensuring the proper resolution of such conflicts in the public administration sector.

Administrative dispute resolution procedures. A systematic approach to the understanding of a service dispute leads to the need to identify various aspects of the concept under study, which can be considered as a legal institution, legal relationship, and legal phenomenon. The institution of a service dispute is a complex legal institution which includes the provisions of service law, which is a sub-branch of administrative law, and the provisions of labour law, civil procedure law, and administrative procedure law governing relations related to consideration and resolution of service disputes. Considering an individual labour dispute as a legal category, it is advisable to note that it contains two types of legal relations: procedural and judicial.

The procedural legal relationship arises in relation to the settlement of differences between the parties to a disputed legal relationship either through direct negotiations independently or with the participation of representatives. A judicial legal relationship arises in connection with an application by an interested person to the relevant jurisdictional body to resolve an individual labour dispute. These legal relations develop in a certain sequence, are aimed at achieving a single legal outcome, form a single whole, and constitute a certain system. This suggests that the content of an individual labour dispute is a legal procedure (Yanyuk, 2022). The legal relationship that constitutes the content of an individual labour dispute has a structure analogous to any legal relationship, with a subject, object, and content. A legal fact precedes the emergence, modification, or termination of a dispute. A service dispute represents a new, protective legal relationship derived from a disputed substantive legal relationship.

A service dispute is a protection legal relationship arising from a factual or alleged violation of the rights and failure to perform the obligations of the subjects of service legal relations, characterised by the emergence of rights and obligations of these subjects that did not exist before the offence. The exercise of these rights and obligations is a way of implementing a security legal relationship. As a result of the implementation of the protection legal relationship through the negotiation and resolution of an official conflict, the offender may lose certain rights or be imposed with a duty that did not exist before, with the termination or preservation of the duty that previously arose from the regulatory service legal relationship.

Following the conventional understanding of legal relations in the theory of law, a service dispute as a legal relationship will be defined as a social relationship arising during the consideration and resolution of service disputes by the rules of administrative, labour, civil procedural, and administrative procedural law. A dispute is based on a complex legal structure, which includes a set of the following legal facts: disagreements on the subject matter of the dispute; failure to resolve them; and the fact of applying to the authorities for consideration of internal disputes. The subjects of legal relations are not only the parties to a service dispute, but also the dispute resolution bodies, and other persons involved in dispute resolution. The object of legal relations is to resolve a service dispute and settle the differences that gave rise to it. The content of legal relations is the rights and corresponding obligations of the parties to legal relations.

The primary issue that arises is the question of understanding a service dispute as a legal phenomenon. The task of defining a service dispute is in organic connection with the need to establish its content, since the definition must contain an indication of all the essential features of the substantive side of the concept being disclosed. Service disputes are defined through categories such as “legal dispute”, “contradiction”, “controversy”, “conflict”, etc. In this case, it is necessary to establish which of the terms is the most suitable. The term “dispute” itself, as noted in the scientific literature, is interpreted in two ways in explanatory dictionaries:

- in the everyday sense, it is understood as “a verbal competition, a discussion of something in which everyone defends their opinion”;
- in a special legal sense, it is perceived as “a disagreement resolved by a court” or as “a mutual claim to possession of something that is resolved by a court” (Kolomoets & Kolpakova, 2017).

Therefore, a systematic approach to the resolution of service disputes requires considering these disputes as legal relations and procedural phenomena. Service disputes can be resolved through a procedural negotiation process between the parties or by appealing to the competent jurisdictional authorities. These procedures are aimed at resolving differences in legal relations related to official duties. Disputes are governed by a set of legal rules, including administrative, labour, and procedural law. The primary purpose of dispute resolution procedures is to achieve a legal result – restoration of violated rights and performance of obligations arising from the conflict.

Conflict as a legal phenomenon. Some researchers, such as O. Movchun (2014), believe that a service dispute is a type of legal conflict arising from disagreements between subjects of public law relations related to the performance of service duties. This opinion is based on an analysis of the legal nature of service disputes and their place in the system of administrative legal relations. Conflicts between the parties to a service relationship may arise for various reasons, grounds, and at any stage of the service relationship. Conflict is not always considered synonymous with the legal term “service dispute”. Many service conflicts may exist in a public body for years without manifesting themselves externally or be resolved by agreement between the head or representative of the head of the relevant body and the civil servant.

Often, civil servants refuse to bring disagreements between them and the head or representative of the head of the relevant body to the bodies authorised by the state to resolve service disputes. Only when the parties unwilling to accept the existing situation, having failed to resolve the problems through mutual concessions, apply to special bodies for resolution, does an official conflict turn into a service dispute. Agreeing with this position, I. Chernyahovych (2019) defined service disputes as legal conflicts arising between the head or representative of the head of the relevant body and a civil servant or citizen who enters the civil service or has

previously been in the civil service due to a violation of the applicant's service rights, subject to administrative or judicial review at the request of one of the parties. In this case, I. Chernyahovych (2019) proposed to consider the term "service dispute" as a separate type of service conflict, the difference between which is its legal nature and the potential possibility of resolution in the procedures established by law. As a result, the terms "service dispute" and "service conflicts" (which includes not only legal but also other official conflicts) are correlated as part and whole, type and genus.

The above opinion is somewhat imperfect, for instance, in terms of indicating the administrative procedure for resolving legal conflicts, which may be applicable for other types of civil service, but not fully for the civil service, since disputes in the civil service may be considered by the Disciplinary Commission for Disciplinary Cases (Service Disputes), and the nature of this body is not sufficiently administrative. At the same time, the conflict approach to understanding the essence of service disputes does not cause fundamental rejection.

The definition of a service dispute through the generic concept of an official conflict, among other drawbacks, has one seemingly simple but essentially a substantial drawback: the term "conflict", derived from the Latin *conflictus*, itself requires a detailed interpretation and a strictly doctrinal definition (Kaida, 2024). The Law of Ukraine No. 2759-IX (2022) does not use this term. Mobbing (harassment) introduced in the current legislation does not fall under the concept of a service dispute. The concept of a service dispute is a type of disagreement that requires further consideration, as a result of which the question of what the conflict is about is answered – in disagreement. This suggests that the interpretation of a service dispute as a disagreement deserves attention, with the disagreement being understood as the essence of the dispute, not the form of its objectification or the reason for it. The definition of a dispute as a disagreement covers all cases of internal disputes, while the form of their objectification is a difference, distinction, or opposition of the legal positions of the parties. The best term used to define a service dispute is "contradiction".

The next fundamental issue that must be resolved concerns the inclusion of the adjective "unresolved" in the concept of an internal dispute in relation to disagreements. There are differing opinions in the legal literature as to whether this term should be used. For example, N. Pak and I.A. Verzun (2022) interpret the issue of disagreements as objectionable. As arguments, the researchers cite the provisions formulated in the science of labour law: the existence of a disagreement between the parties to legal relations means the existence of a dispute; disagreements can be settled.

Thus, a service conflict is an integral part of the interaction between subjects of public law relations. It arises from varying interpretations of official duties, rights, or interests. Conflicts can exist without overt signs for a long time or be resolved internally through compromises or agreements between the parties. However, when the situation becomes critical and a compromise is not possible, the conflict becomes a service dispute, which is resolved through legal procedures. Thus, an official conflict and a service dispute are related phenomena, where the former can develop into a legal one if no other settlement is reached.

Dispute and conflict: Differences in concepts. When describing a legal dispute, the term "unresolved" should be applied not to its main attribute – disagreements – but to the attitude towards its subject matter – a range of unresolved issues on which these disagreements arose. The emergence of certain issues, their unresolved nature, and lack of regulation give rise to disagreements. In turn, the existence of disagreements is expressed by the presence of certain unsettledness, including imbalances, inconsistencies in rights and obligations, inconsistencies in the actions of actors, and contradictions in regulations.

The authors of the manual Conflict Management for the Public Service question the reference in departmental regulations to the entities competent to resolve service disputes in the definition of service disputes. The Ukrainian legislation on the resolution of interpersonal conflicts and disputes in the public service can be described as limited, unstructured, and unsystematic. A series of laws on state bodies, internal regulations on central government bodies, model regulations and, using the analogy of law, the Labour Code of Ukraine partially and indirectly regulate dispute resolution (Kalenichenko *et al.*, 2021). This is indicated by the Information Letter of the Higher Administrative Court of Ukraine No. 753/11/13-10 (2010).

The absence of the need for such an indication is conditioned by a series of circumstances: a legal dispute as a disagreement about rights and obligations can be resolved without a jurisdictional body by settlement by the parties or with the participation of an intermediary (conciliator), if such procedures are established by law; the bodies competent to resolve a legal dispute are not signs of this dispute, but of a procedural form of protection of violated rights. These bodies are not part of the subject matter of the dispute and cannot characterise its properties. When formulating the definition of an internal dispute, it is not expedient to indicate that the dispute is resolved in certain legal forms, such as legal procedures. Without entering into a purely theoretical debate and considering that the institution of internal disputes is more of a judicial than a substantive legal institution, it is advisable to set out some basic provisions.

To distinguish between the terms "dispute" and "disagreement", which are similar in meaning, and one of which determines the other, it is necessary to use the term "unresolved disagreement" in the definition of a service dispute. From the standpoint of judicial legislation, a dispute should be recognised only when the disagreement has not been settled by the parties to the dispute, provided that the disagreement has been reported to the body (or person) authorised to consider service disputes. Disagreements may have the following dynamics: the emergence of a disagreement in the presence of a certain reason and basis; development that involves several options – a direct appeal by one of the parties to the other party to the disagreement, which may result in its resolution to the satisfaction of all participants. In this case, there is a fact of settlement of the disagreement, but it is clear that in reality it existed. For example, if a civil servant is denied annual paid leave for years of service, the employee may apply directly to the head of the relevant body. The latter, after consulting with the HR and civil service department and the legal department of the body, may recognise the legitimacy of the civil servant's claims and issue an order to grant the leave. The disagreement was resolved through direct negotiations.

Applying for direct settlement of disagreements may result in a refusal to satisfy the stated claims, which entails

the following options: applying to the bodies for consideration of service disputes (or to a superior), in which case the unresolved disagreements become a service dispute. In the above example, after the head of the relevant body refuses to grant a leave to a civil servant, the latter may file an application with the commission on service disputes or with the court, considering the Law of Ukraine No. 2136-IX "On the Organisation of Labour Relations under Martial Law" (2022); recording the situation at the level of unresolved disagreements without applying to the bodies authorised to resolve service disputes, since the subject of the dispute did not consider it possible and necessary to file claims in this manner. Such a situation may be conditioned by various reasons, including complications in relations with the other party to the disagreement, which implies that such an appeal is futile. In such a case, the disagreement stays unresolved and becomes an internal dispute. However, the situation may change, and a party may file a claim by applying to the internal dispute resolution bodies. This practice is widespread when civil servants make claims for payment of, for instance, salary arrears after leaving the civil service; applying to the internal affairs bodies without first directly contacting the other party. In this case, in the absence of an obligation to directly settle the dispute in the current legislation, the disputant does not make such attempts and simultaneously applies to the dispute resolution bodies; "dissipation" of the dispute without attempts to settle it. An analogous situation may arise for the reasons described in relation to the second option. The civil servant, making no attempt whatsoever to resolve the disagreement, leaves the situation of the alleged violation of their rights unchanged. However, the situation may change, and the civil servant may take legally significant actions designed to settle the disagreement and resolve the dispute.

A service dispute involves the presence of mandatory features: unresolved disagreements; the fact of applying to the bodies for resolving service disputes (or to an authorised superior). In terms of the content of a service dispute, researchers' positions are quite similar in terms of understanding the elements that make up such content. For example, it is believed that the content of an internal dispute is a legal construct that includes three key elements: parties (subjects), subject matter, and grounds. This construction is based on a fundamental study of the legal construction of administrative disputes by N. Kovalenko (2021), who started from the conceptual understanding of the content of a claim and identified three key elements of a legal dispute: parties, subject matter, and grounds.

The allocation of these elements is substantiated by practical purposes: the elements of a legal dispute should include such parts that would enable settlement or resolution (Shulha, 2022). The elements of a legal dispute should be analogous to the elements of a claim, since the content of the dispute objectively conditions and largely determines the elemental composition of the claim, through which the dispute is submitted to the jurisdictional authority (Malykhina, 2021). The construction of a legal dispute should be based on current legislation, which to some extent embodies the legal experience of cognition and legal regulation of the forms of its resolution (Georges *et al.*, 2022). There is no legal definition of a legal dispute in the legislation, nor is there a special definition of its constituent elements. However, such elements are distinguished due to the need to address a series of practical issues. The point is that the elements of a dispute determine their identity.

One can distinguish three components of identity: persons (parties), subject matter, and grounds, consolidating the essential practical significance of these three elements and indirectly defining them as the fundamental components of a legal dispute. The parties to a service dispute are a civil servant and an official acting on behalf of a public authority, state body, or military administration body. As for the first subject of a service dispute, according to the Law of Ukraine No. 889-VIII (2015), a civil servant is a citizen who performs professional service activities in a civil service position and receives a salary from the state and local budget. Based on the definition of a civil servant, the key features of this entity can be identified as follows: Ukrainian citizenship, professional service, holding a civil service position, and receiving a salary from the relevant budget. At the same time, a civil servant is named as a party to a service dispute only in Article 31 "Contract on Civil Service with a Person Appointed to a Civil Service Position" (Law of Ukraine No. 889-VIII, 2015), which stipulates that the subject of the dispute is a civil servant.

The primary subject of a service dispute in the civil service is a civil servant, in connection with whose appeal regarding an actual or alleged violation of rights the relevant body considers a service dispute. Therewith, as mentioned above, a citizen who is entering the civil service or has previously been in the civil service may be a party to such a dispute. For example, according to Article 28 of the Law of Ukraine No. 889-VIII (2015), an applicant for a civil service position who is not determined as the winner of the competition is entitled to appeal the decision of the competition commission. The reference to the subject of a service dispute who was previously in the civil service is logical, since it is fair to provide citizens dismissed from the civil service with the opportunity to appeal against what they consider to be an unlawful dismissal or to make other claims against the other party to the dispute.

As for other types of civil service, the relevant laws do not name civil servants as subjects of service disputes. The laws on types of civil service do not use the term "civil servants"; instead, it is replaced by such terms "police officer (policeman, public servant)", "employees, officers and commanders of civil protection service", "customs officer", "specialist, employee, officers and commanders of the penitentiary service", "state bailiff, private bailiff", "prosecutor", "officers and commanders, civil servants of the State Bureau of Investigation".

The Procedure for Concluding a Contract for Police Service (2017) stipulates that the subjects of service disputes arising in the police are a police officer or a citizen who enters the service of the National Police. All disputes that arise, including when a police officer is at the disposal of the central executive body in the field of internal affairs and the National Police, its territorial body or unit, on a business trip, or in full-time training as a cadet or trainee, are considered to be service disputes.

A service dispute in the police is an official legal relationship of a complex substantive and procedural nature, expressed in the presence of unresolved disagreements between the parties caused by a conflict of interest in the field of civil service in the police or a difference of opinion on the legality and validity of the application of regulations in

the field of internal affairs and contracts, headed by a state executive body or authorised manager.

In terms of other types of civil service, which used to be commonly known as law enforcement service, the issue of determining the first party to an internal service dispute should be resolved analogously. The subject of a service dispute is a "police officer (policeman, public servant)", "employee, rank and file of the civil protection service", "customs officers", "specialist, employee, officers and commanders of the penitentiary service", "state bailiff, private bailiff", "prosecutor", "officers and commanders, civil servants of the State Bureau of Investigation", and a citizen who is entering or has previously been in service.

When defining the parties to service disputes in military service, it should be noted that the legislation on military service does not use the concept of service disputes and only refers to the right of a servicemember to appeal against unlawful actions. Article 19 of the Law of Ukraine No. 2011-XII "On Social and Legal Protection of Military Personnel and Members of their Families" (1991), titled "The Right of a Servicemember to Appeal Against Unlawful Decisions and Actions", states that servicemembers are entitled to protect their rights and legitimate interests by applying to court according to the procedure established by laws and other regulations of Ukraine.

Unlawful decisions and actions (inaction) of military command and control bodies and commanders may be appealed by war veterans according to the procedure prescribed by laws. The Law of Ukraine No. 3551-XII (1993) defines the rights of war veterans, including the possibility to appeal against actions of military authorities and commanders that affect their rights. The Code of Administrative Procedure of Ukraine (2005) regulates the procedure for appealing against decisions, actions, or inaction of state bodies, including the military; Statutes of the Armed Forces of Ukraine (Drozd *et al.*, 2024) include provisions that define procedures for military personnel who intend to appeal against decisions of commanders; other regulations may contain specific rules or procedures related to military operations.

Military personnel, citizens called up for military training and citizens in the military reserve of the Armed Forces of Ukraine (in cases stipulated by laws and other regulations of Ukraine), as well as former military personnel and citizens who have expressed a desire to enter military service under a contract may be recognised as subjects of service disputes arising in connection with military service. Having revealed the substantive aspect of service disputes in terms of their subjects and having established that one of such parties is a civil servant, it is natural to turn to the study of the status of the other party to service disputes. In this regard, the legislator has taken a fundamentally different approach to defining the other party to a service dispute. In civil service disputes, a party is the head or a representative of the head of the relevant state body, public local authority, a person holding a public office, or a representative of the head or a person exercising the powers of the head of the relevant body on behalf of Ukraine.

I. Kolosov (2018) believes that the representative of the head of the relevant body is an independent subject only of the employment relationship arising based on an employment contract. They can be a party only to a service dispute that arose over the conditions of service in that particular public authority. Apart from disagreements over the application of the service contract, the subject matter of a service dispute may include disagreements over the application of laws and other regulations on the civil service; unlawful refusal to enter the civil service; and discrimination in the civil service. Civil service legislation is complex and includes provisions of varying content, such as conditions of professional activity, social guarantees, and procedural rules. In this regard, disagreements in the civil service may arise not only over the conditions of professional service, such as granting leave, establishing working hours, payment of salaries, and the exercise of other rights that constitute the legal status of a civil servant (Prisyazhnyuk, 2024), specifically, health insurance for civil servants and their family members, compulsory state insurance in case of illness or disability, protection of civil servants and their family members from violence, threats, and other unlawful acts.

I. Kolosov (2018) concluded that an individual service dispute arises from a breach of obligations of the official labour relations, to which the head of the relevant body is a party, and public service relations, to which the state as such is a party. R. Braams *et al.* (2022) noted that an individual service dispute may be related to any element of the legal status of a civil servant. Depending on the nature of the dispute, the other party, the head or representative of the head of the relevant body, or the state as such should be identified. The researchers pointed out that by signing a service contract with a representative of the head of the relevant body, an employee enters into public law relations directly with the head of the relevant body (Ukraine). The representative of the head of the relevant authority has their own official legal personality.

The state acts on the side of the governmental subject of service relations, while on the other side is the head or representative of the head of the relevant body (in disputes over the legality of civil service regulations, the state body or official who issued the disputed act). The state cannot be a public-law party to a service dispute. Such a party may be a particular official (head, representative of the head of the relevant body – in disputes over subjective law) or a state body or official (in disputes over objective law). Based on the results of considerations on the expediency of designating a particular official as a public party to a service contract, N. Kovalenko (2021) concluded that it is more logical to designate the state body in which the official carries out their professional activities as a party. Service disputes as unresolved disagreements may arise between a civil servant and a particular person acting on behalf of the head of the relevant body. It is expedient and necessary to preserve the name of the head or representative of the head of the relevant body as a party to a service dispute in the form of a legislative provision, since they act in official relations not on their own behalf but on behalf of the state. The state itself cannot be a party to a dispute. Otherwise, one must assume that a dispute arising with the state will be resolved by it. It is axiomatic that all state bodies act on behalf of and in favour of the state.

A state body is a certain structure in the mechanism of the state. It is not impersonal. A public authority includes positions filled by officials, some of whom are authorised to act on behalf of this public authority, and in a broader sense on behalf of the state. Within the framework of official relations, all legally significant actions in relation to civil servants are performed by the head or representative of the head of the relevant body.

Disagreements on the application of laws, other regulations on civil service, and the service contract may arise between a civil servant and their supervisor, not with the state body itself or with a person acting on its behalf. Disputes about objective law do not fit into the concept of service disputes, they extend beyond them. Such disputes are administrative cases, which are no different from administrative disputes where civil servants are not the subjects. Therefore, the head or representative of the head of the relevant body where the civil servant works should be considered a party to a service dispute. However, the issue of a state body as a subject of these legal relations should be resolved not within the framework of considering the content of the term "service dispute", but from the standpoint of the judicial procedure for resolving service disputes.

In case of classification of service disputes as administrative cases to be resolved through administrative proceedings, it is advisable to consolidate in Part 4 of Article 46 "Parties" of the Code of Administrative Procedure of Ukraine (2005), as one of the specific features of proceedings in this category of administrative cases, the provision according to which the relevant body where the official, civil servant, or local self-government official performs their duties is involved as a second defendant in an administrative case on appealing a decision, action (inaction) of an official, civil servant, or local self-government official.

In this case, the head or representative head of the relevant body acts as a party to the service dispute, who will be the defendant in the administrative proceedings, and the relevant state body must be involved as a second defendant. Returning to the question of the difference in legislative approaches to establishing the subjects of service disputes arising in different types of civil service, let us consider the analysis of the legislation on military service, which allows naming such subjects as military administration bodies and commanders (chiefs).

The indication of commanders (chiefs) as independent subjects of service disputes stems from the unity of command, which is one of the basic principles of the Armed Forces of Ukraine, leadership and relations between servicemembers. Unity of command means that the commander (chief) has full authority over their subordinates and is personally responsible for all aspects of the life and activities of the military unit, subdivision, and each servicemember. The sole authority is manifested in the right of the commander (chief) to make decisions unilaterally, based on a comprehensive assessment of the situation, and to give orders following the procedure established in Section 2 "General Duties of Commanders (Chiefs)" and Section 3 "Duties of Officials and Private Servicemen" (Law of Ukraine No. 548-XIV, 1999). Military regulations establish the obligation of subordinates to obey orders of their superiors without question. Therewith, it is possible to appeal against an order executed by a servicemember if one disagrees with it. Military regulations do, admittedly, establish the obligation of subordinates to obey orders without question, but they also prescribe the possibility of appealing against illegal or unlawful orders: "The Disciplinary Statute of the Armed Forces of Ukraine (1999) states that "the right of the commander is to give orders and instructions, while the duty of the subordinate is to execute them, except in the case of a manifestly criminal order or instruction". The Statute of the Internal Service of the Armed Forces of Ukraine (1999) also emphasises that a superior is entitled to give orders to a subordinate, while a subordinate shall be obliged to carry them out, unless these orders are clearly criminal. Thus, servicemember may appeal against orders if they consider them unlawful, but this does not relieve them of their obligation to carry out orders until they are appealed or cancelled.

Parties to an internal service dispute related to military service are military command and control bodies, commanders (chiefs), who are granted independent powers to make decisions and issue orders. In other types of civil service, for instance, in the police, the subject of a service dispute is represented by the head of the police or the head's authorised representative, a direct supervisor, or a direct superior. This situation is explained by the intermediate position of other types of civil service.

To conclude the discussion of the subjects of a service dispute, one can make a preliminary conclusion that the parties to a service dispute are a civil servant (a person who has previously held civil service, a person who is entering civil service), and a superior authorised to act on behalf of a public authority, other state body, or military administration body where the civil service is performed.

The definition of the range of subjects of service disputes does not allow for a precise definition of the concept of service disputes. To solve this task, it is necessary to answer the question of the subject matter of a service dispute. The subject matter of a service dispute as an object of research has been ignored by researchers. The specific object of an administrative legal service dispute is the relations associated with the admission to the civil service of Ukraine, its performance and termination, and the determination of the legal position (status) of a civil servant. This definition arguably suffers from a lack of in-depth theoretical analysis of the concepts under study and is characterised by a simple list of areas where service disputes may arise.

While acknowledging the expediency of prescribing the universal category of the subject matter of a service dispute in the definition of a service dispute in the civil service legislation, the main question to be answered is why disagreements between the parties to the dispute may arise. Disagreements may arise from decisions, actions, or inaction of one of the parties to the disputed legal relationship. Any decision, action (or inaction), whether lawful or unlawful, made during a service relationship (as well as relations preceding or following a service relationship) may be the subject of a service dispute.

Such a universal understanding of the subject matter of a service dispute can cover all possible disputes. Both when there has been a violation of the rights of one of the parties to the dispute and when such a violation is only alleged. For instance, disagreements over the admission, performance, or termination of civil service related to the establishment of the facts of the presence or absence of rights, obligations, and responsibilities of subjects of service relations, mediated by the application of civil service regulations and service contracts, organically fit into the proposed definition of the subject matter (Suray, 2021).

This content of the subject matter of a service dispute includes situations regarding the need for mandatory judicial control over the observance of human and civil rights and freedoms in the implementation of certain administrative power requirements for civil servants, for instance, when holding civil servants liable for material damage or in

proceedings on materials on disciplinary offences when military personnel are subjected to arrest with detention in the brig.

O. Sereda and Yu. Burnyagina (2023), considering the specific features of legal regulation of civil servants' employment relations in modern conditions, noted that the administrative legal approach and the labour law approach to the regulation of civil servants' work, the content of civil service relations are determined by the forms that mediate them, and not by "forms of determining the content". Legal relations related to the civil servants' fulfilment of the requirements of officials and special officials, including compliance with the law and official discipline, are public law relations. Therefore, disputes over them, as well as over the legality of issuing administrative acts in connection with civil service and determining the status of an employee, are of a public law nature. A service dispute about the validity and legality of a disciplinary investigation, about the application of measures to ensure disciplinary proceedings, is ultimately the basis for a form of administrative, managerial dispute, security legal relations, a procedural category, and a type of judicial and procedural activity. O.I. Mykolenko and O.M. Mykolenko (2021) believe that a general analysis of the national legislation on public service shows internal inconsistencies in its regulations, which clearly indicates that the reform of the public service system in Ukraine is incomplete.

In terms of official tort legal relations, the fault of a civil servant may violate the established regime of activity of an official body, legal rights, and legal public interests of a legal entity, have negative consequences for the state, and undermine the authority of the government. This establishes special requirements for the official behaviour and discipline of employees and their security service specialists as representatives of the state, which is not the case with violations of labour discipline.

The nature and content of service disputes have different specifics, and the issues and regulation of their consideration are mediated primarily by the legislation on services. This is confirmed by the provisions of the Law of Ukraine No. 889-VIII "On Civil Service" (2015). The legal status of a civil servant, including restrictions, obligations, rules of official behaviour, liability, and the procedure for resolving conflicts of interest and service disputes, are established by the relevant law on the type of civil service.

The proposed understanding of the subject matter of a service dispute, together with the established circle of subjects of service disputes, allows identifying the situations that should be regarded as service disputes. A service dispute always has as its subject matter a decision expressed in various administrative acts, an action (inaction) of a subject that may be taken in various forms but must be committed by one of the parties to the dispute. The subject matter of a service dispute is the disputed decision, action (or inaction) of a party to the service dispute. The grounds for an internal dispute are those on which the dispute is based, i.e., the legality (illegality), validity (unreasonableness) of the disputed decisions, actions (inaction). A service dispute is caused by an actual or alleged violation of the rights of one of the parties as a result of the actions of the other party.

As a legal category, a service dispute is an unresolved disagreement between a civil servant and a manager (superior) caused by a belief that the employee's rights and legitimate interests have been violated in the process of issuing acts, performing legally significant actions, different understanding of business, or a dispute over one's rights. A dispute is a procedural category in which it arises, progresses, and finds its resolution. It does not exist outside the procedure. A service dispute as a judicial category is an unregulated disagreement between the parties to a service relationship that is referred to an authorised body, official, or court for resolution.

An interdisciplinary approach to the resolution of public law disputes in the field of civil service allows for in-depth analysis and coverage of all aspects of this complex issue. It is based on the integrated use of knowledge and methods from various branches of law, such as administrative, labour, and constitutional law, which helps to ensure a comprehensive resolution of conflicts between civil servants and public authorities. This approach involves not only legal interpretation, but also sociological, psychological, and management research, which gives a better understanding of the context of conflicts, their root causes, and the motivations of the parties involved.

Administrative law clearly regulates the procedural aspects of civil service, labour law defines the rules of interaction between employees and employers, and constitutional law establishes the basic principles of the functioning of state bodies and guarantees of employees' rights. The combination of these approaches creates a broad legal framework for dispute resolution. Sociological research helps to uncover the social factors that influence conflicts, such as organisational culture or group dynamics, while psychological methods help to understand the emotional aspects of conflict situations and suggest ways to resolve them peacefully.

Managerial approaches enable a more efficient organisation of work processes, reduce the risk of disputes, and improve the quality of interaction between public authorities and their employees (Prisyazhnyuk, 2024). The interdisciplinary approach also opens opportunities for borrowing international practices, specifically European Union standards, which enables the adaptation of best practices to Ukrainian legislation and ensures legal protection of civil servants at the highest level. This creates a comprehensive system aimed at fairly resolving disputes and improving the efficiency of public administration.

The cooperation of specialists from various fields, such as lawyers, sociologists, human resources specialists and psychologists, ensures a multifaceted approach to resolving disputes arising in the civil service. Such interdisciplinary interaction enables a detailed analysis of both legal and personal aspects of conflicts. Lawyers provide a legal assessment of the situation and formulate legal solutions, while sociologists investigate social factors that may cause conflicts, such as the culture of the organisation or social relations between employees. Psychologists study the personal and emotional aspects of the conflict, which allows them to better understand the behaviour of the parties to the dispute, while human resources specialists help to find management solutions to prevent analogous situations in the future. This is especially true for employees working in stressful environments, such as law enforcement. Studies show that the ability to self-regulate and focus on loss prevention are key factors that determine the success of professional activities in crisis situations (Shvets *et al.*, 2024).

Integration of international practices, specifically European Union standards, is a significant element of this approach. European standards for conflict management and

the regulation of service disputes provide effective tools for improving national legal mechanisms (Kalenichenko *et al.*, 2021). This contributes not only to the modernisation of legislation, but also to the improvement of administrative procedures that enable faster and more efficient dispute resolution.

International approaches include methods of preventive conflict resolution, such as mediation and arbitration, which can be successfully integrated into the Ukrainian public administration system (Deineha, 2022). This helps to protect the rights of civil servants, reduce the number of conflicts, and improve the overall climate in public institutions more effectively. This integrated approach ensures the stability and efficiency of the civil service, which positively affects the functioning of public authorities.

Thus, an interdisciplinary approach to the resolution of public law disputes in the civil service enables a comprehensive approach to conflict resolution. It is based on a synthesis of knowledge from various branches of law, including administrative, labour, and constitutional law, as well as sociological, psychological, and management studies. This enables a deeper analysis of the causes of disputes, considering them from both a legal and a personal perspective, which contributes to more effective conflict resolution. Integration of international practices, such as European Union standards, is particularly relevant, as it helps to improve national legal instruments and ensure the protection of civil servants' rights.

Conclusions

Summarising the discussion of the theoretical foundations, regulatory framework, and specific features of public law disputes, including service disputes, several key conclusions can be drawn. A service dispute is a special type of public law dispute that arises in the field of public administration and has its specific features, which are determined by the legal relationship between a public servant and public authorities. Like any other public law dispute, a service dispute is characterised by a conflict of legal positions of the parties and a procedure for resolving it through the judiciary or special bodies dealing with official matters.

The primary purpose of this study was to examine the nature of service disputes and their legal regulation in Ukraine. The analysis helped to establish that a service dispute is essentially a conflict between a civil servant and the relevant authority or head of the civil service. The subject matter of such a dispute is the legality of decisions, actions, or inaction that arise within the scope of official duties. In this sense, service disputes cover a wide range of administrative legal relations and considerably affect the functioning of public administration.

After analysing all aspects, service disputes can be said to arise due to the misinterpretation of legal provisions or their incorrect application in relation to the rights of civil servants. The specific feature of these disputes is that they arise in specific legal conditions where one party to the dispute – a state body or its representative – is vested with power. This creates a certain imbalance in legal relations that requires special legal mechanisms to ensure fairness and equality of the parties in the dispute resolution procedure.

One of the key components of this study is an analysis of the legal mechanisms employed to resolve service disputes. The study found that Ukrainian legislation contains certain provisions regulating the procedure for resolving such disputes, but they need to be further improved. This is especially true in terms of developing clearer procedures to ensure that the rights of civil servants are adequately protected and that conflicts related to management decisions are avoided.

An interdisciplinary approach to resolving service disputes is necessary and significant, as it allows conflicts to be considered not only from a legal standpoint, but also in the context of social, psychological, and managerial aspects. The interaction of lawyers, sociologists, psychologists, and HR specialists contributes to a comprehensive analysis of the causes of the conflict, which helps to identify more effective solutions. This approach provides a deeper understanding of the motives of the parties to the dispute and their behaviour, which ultimately helps prevent similar situations in the future. The integration of international practices also contributes to the improvement of legal mechanisms and helps to adapt best practices to the national context, increasing the efficiency and fairness of the dispute resolution process.

The findings of the present study underline the significance of further developing the legal framework for regulating service disputes, specifically through harmonisation with European standards. This will enable more effective protection of civil servants' rights and ensure transparency in the dispute resolution process. In summary, the development of new procedures and standards that factor in the international practices is a promising area for further research.

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Conflict of interest

The authors of this study declare no conflict of interest.

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Публічно-правові спори у сфері державної служби: міждисциплінарні підходи до попередження та врегулювання

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Анотація. Актуальність дослідження зумовлена необхідністю вдосконалення правового регулювання службових спорів у системі державної служби на фоні реформ державного управління. Метою роботи було визначення правової природи службових спорів, їх специфічних ознак і порядку їх вирішення в межах адміністративного процесу. Методологічну основу дослідження склали порівняльно-правовий, формально-логічний, діалектичний, історико-правовий та аналітичний підходи, які дозволили всебічно вивчити нормативно-правову базу, сучасні наукові підходи та практику вирішення службових спорів. Було досліджено сутність службових спорів та їх правову природу, встановлено, що вони є різновидом публічно-правових спорів, що виникають у сфері державної служби. Проаналізовано юридичні підстави, сторони спорів, зокрема спори, пов'язані з дисциплінарними стягненнями та розірванням договорів про державну службу. Встановлено, що службові спори виникають через неврегульовані розбіжності між державним службовцем та державним органом чи його представником щодо правомірності рішень чи дій, що порушують права службовця. Такі спори часто стосуються як обґрунтованості застосування дисциплінарних санкцій, так і правомірності звільнення з посади. Було проаналізовано механізми розгляду таких спорів, передбачені адміністративним законодавством, і виділено основні етапи та процесуальні форми вирішення цих спорів, які включають дисциплінарні провадження. У результаті дослідження визначено ключові процедури, які мають забезпечити справедливий розгляд спорів, а також можливість оскарження рішень дисциплінарних комісій. Аналіз показав, що ефективність розгляду службових спорів значно залежить від дотримання процесуальних норм і забезпечення доступу до правосуддя для державних службовців. На основі дослідження зроблено висновок, що службові спори мають свою правозастосовну специфіку в межах адміністративного процесу та є важливим інструментом правового захисту прав державних службовців. Практична цінність дослідження полягає у можливості застосування результатів для вдосконалення механізмів вирішення публічно-правових спорів у сфері державної служби, що сприятиме підвищенню ефективності функціонування державних органів

Ключові слова: державний службовець; юридичний конфлікт публічного характеру; службові відносини; службовий спір; трудовий спір; державний орган; спір про право

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Socio-legal challenges of legal regulation of land relations in the Republic of Kazakhstan

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Abstract. The purpose of this study was to identify systemic problems of legal regulation of land relations in the Republic of Kazakhstan. The study employed a combination of institutional and systemic approaches to comprehensively consider land relations as a single regulatory system that combines legal provisions, socio-economic mechanisms, and administrative practices. The study revealed substantial disproportions in the access of various categories of land users to land resources, where only 6% of allocated plots are held by small farms, while large agricultural holdings, having extensive financial resources and professional legal support, have preferential access to land resources. Systemic shortcomings in land use control mechanisms were identified, including the lack of a unified electronic land cadastre platform and limited access to information on available land plots, which creates preconditions for corruption risks and non-transparent resource allocation. The study identified problems with insufficient integration of environmental requirements into land use practices, which leads to soil degradation, as well as ineffective mechanisms of liability for violations of environmental standards due to the difficulty of proving violations and the length of court procedures. A separate problem is the limited role of local communities in land management processes and the lack of transparency in land allocation procedures for social needs, which creates preconditions for social tension. Based on a comparative analysis of the practices of other states (Uzbekistan, Kyrgyzstan, and Georgia) and recommendations of international organisations, the study developed comprehensive proposals for improving legal regulation, including creation of open registers and public cadastres to ensure broad public access to information on land plots; introduction of electronic services to simplify procedures for obtaining and registering land; strengthening the role of local communities through public control mechanisms; and establishing clear criteria for foreign investors' access to land resources. The proposed measures are aimed at ensuring greater social justice and economic efficiency in the field of land relations in Kazakhstan, while the findings obtained can serve as a basis for further improvement of legal regulation in this area and development of mechanisms for digital transformation of land administration

Keywords: agricultural holdings; community; public administration; environmental safety; investment attractiveness

Introduction

The legal regulation of land relations in the Republic of Kazakhstan is one of the most dynamic and significant areas of public administration that requires constant improvement and adaptation to modern challenges. Of particular relevance are the issues of digitalisation of land relations, ensuring environmental safety and rational use of land resources in the context of the development of a green economy. Socio-legal challenges in the field of land relations regulation

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require a comprehensive analysis of the existing regulatory framework and the development of innovative approaches to solving existing problems. The significance of effective legal regulation of land relations is increasing due to the growing role of the agricultural sector in Kazakhstan's economy and the need to ensure the country's food security. The current situation requires the creation of an effective legal regulatory system that addresses both the specific national features and international standards in the field of land relations.

Many researchers have explored the fundamental aspects of legal regulation of land relations. L. Igaliyeva *et al.* (2020) analysed the economic mechanism for ensuring environmental safety in Kazakhstan and found that 75% of the country's territory is at increased risk of environmental destabilisation. The researchers found that the existing environmental governance mechanisms are unsystematic and inconsistent with current market conditions, which led to the development of comprehensive recommendations for improving the economic mechanism for ensuring environmental safety, including reforming legislation, introducing environmental education, and strengthening the scientific basis for environmental safety. M. Abaikyzy *et al.* (2020) investigated the legal nature of land easements as a branch of civil and land law. The researchers identified the historical, generic, and structural features of easements, substantiated the need for their regulation by a single branch of law, and proposed concrete mechanisms for improving the legal regulation of easement relations.

E. Kuandykova *et al.* (2020) conducted a comprehensive analysis of the legal regulation of the digital transformation of public administration in agriculture. The researchers substantiated the dependence of the effectiveness of digital solutions on the level of public administration organisation and proposed innovative approaches to legal regulation in the digital reality. The researchers developed recommendations for improving the regulatory framework, specifically, emphasising the significance of legislative consolidation of the principles of digitalisation, ensuring access to financial resources for agricultural producers, strengthening liability for violations in the use of a single national platform, and improving the legal regulation of agricultural product traceability monitoring. L. Yerkinbayeva *et al.* (2022) expanded on the study of digitalisation by focusing on the legal regulation of environmental information. The researchers provided comprehensive recommendations for improving legislation on access to environmental information and proposed mechanisms for protecting citizens' environmental rights in the context of digitalisation. Specifically, it was proposed to create a single digital platform with unrestricted access to environmental data, ensure its real-time updating, introduce mechanisms for verifying information, strengthen responsibility for concealing it, and standardise digital environmental reporting by enterprises.

Important aspects of land relations reform were revealed in the studies of contemporary researchers. A. Ozenbayeva *et al.* (2024) conducted a detailed analysis of the legal framework for the legislative regulation of land relations in the Republic of Kazakhstan. The researchers identified problematic aspects, shortcomings, and contradictions in the existing regulations, noted the significance of reforming the agrarian economy and substantiated the need for a special law to regulate the targeted use of land in detail. A. Satybaldin *et al.* (2024) investigated the effects of institutional changes on the process of land reform in the agricultural sector. The researchers proved that the quality of the adopted regulations directly affects the socio-economic and environmental situation and proposed concrete mechanisms for improving the institutional system. L.K. Kaidarova *et al.* (2023) developed theoretical and practical aspects of the development of the agricultural land market, proposing innovative ways to improve the efficiency of state regulation through the introduction of automated information technologies.

A. Yessekeyeva (2018) investigated the constitutional, legal, and systemic aspects of land relations, revealing the conceptual foundations of modern land and legal policy and substantiated the need to improve the quality of state regulation of the land market. A. Kurmanova (2024a) investigated the issues of property rights to natural resources, proposing mechanisms for improving the constitutional regulation of ownership of natural resources. R. Abdullaev (2022) conducted a comprehensive analysis of the legal mechanisms for the implementation of land ownership, examining the procedures for granting land plots and systematising the requirements for documentation.

The analysis of the scientific literature showed that various aspects of legal regulation of land relations in Kazakhstan have been thoroughly explored. At the same time, the issues of legal support for the digital transformation of land relations, mechanisms for harmonising national legislation with international standards, and legal regulation of new forms of land use in the context of the development of the green economy are still understudied. Particular attention should be paid to the issues of improving the legal regulation of land monitoring and developing effective mechanisms for protecting the rights of landowners in the context of digitalisation.

The purpose of this study was to conduct a comprehensive analysis of the socio-legal challenges in the field of land relations regulation in the Republic of Kazakhstan. To fulfil this purpose, the following tasks were identified:

1) to analyse the regulatory framework for the regulation of land relations in the Republic of Kazakhstan, including constitutional provisions, sectoral legislation, and mechanisms of state land management;

2) to investigate the socio-economic effects of the current legal framework on various categories of the population, including small farmers, local communities, and large agro-industrial companies;

3) to identify the principal issues in law enforcement and conflicts in land relations and develop recommendations for improving legal regulation to ensure fair access to land resources and their efficient use.

Materials and methods

The methodological framework of the study was a combination of institutional and systemic approaches, which helped to consider land relations as a complex institution that combines legal provisions, socio-economic mechanisms, and administrative practices into a single regulatory system. The theoretical framework of the study included the concept of sustainable development set out in the Voluntary Guidelines on the Responsible Governance of Tenure of Land by Food and Agriculture Organisation (2022), which helped to assess the balance between economic, social, and environmental aspects of land use, as well as to determine the degree of compliance of national legislation with international standards in the field of land relations.

The study employed a combination of general scientific and special legal methods. The comparative legal method was employed to compare the mechanisms of regulation of land relations in Kazakhstan and other post-Soviet countries, specifically, when analysing Uzbekistan's practices of privatisation of non-agricultural land, Kyrgyzstan's practice of decentralisation of land management, and Georgia's approaches to liberalising foreign investors' access to the land market. The formal legal method was employed for a detailed analysis of the structure and content of legal acts, identification of legal conflicts and gaps in regulation, especially in terms of land allocation procedures and mechanisms for resolving land disputes. The study employed the systemic-structural method to investigate the interaction of multiple levels of legal regulation, starting from the constitutional provisions on state ownership of land to concrete mechanisms for exercising land use rights at the local level.

The legal framework of the study included the Constitution of the Republic of Kazakhstan (1995), the Land Code of the Republic of Kazakhstan (2003), laws and regulations governing certain aspects of land relations, as well as international documents, including the Voluntary Guidelines on the Responsible Governance of Tenure of Land by Food and Agriculture Organisation (2022), and the United Nations Sustainable Development Goals. Analytical materials of international organisations were analysed in detail: World Bank (1994) reports on the agricultural sector of Kazakhstan, United Nations (2021) assessments on environmental aspects of land use, European Bank for Reconstruction and Development (2022) recommendations on the investment climate, Organisation for Security and Co-operation in Europe (2016) studies on regional security and Organisation for Economic Co-operation and Development (2014) analytical reviews on regulatory policy. A valuable source was the judicial practices, specifically, the decisions and summaries of the Supreme Court of the Republic of Kazakhstan on land disputes (Judicial Collegium on Administrative Cases of the Supreme Court of the Republic of Kazakhstan, 2023; Judge of the..., 2017), which helped to identify systemic problems in law enforcement and assess the effectiveness of judicial protection of land users' rights.

The empirical framework of this study was formed by the official statistical data of the Bureau of National Statistics of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan (2024a; 2024b) for 2023-2024 on the state of agriculture and land use, analytical reports of the Ministry of Agriculture of the Republic of Kazakhstan (2023) on the state of land resources, and information from the electronic legal information portal "Adilet". The results of the public monitoring of the quality of public services in the land sector, sectoral studies of labour productivity in various sectors of the economy (Halyk Research, 2024a; 2024b) and analytical reviews of the country's largest agricultural holdings (The SKO is..., 2022) were used to comprehensively assess the practical aspects of the implementation of land legislation and its effects on various categories of land users, from large agro-industrial companies to small farms.

Results and discussion

Regulatory framework for the governance of land relations in the Republic of Kazakhstan. Land is considered an integral part of the national wealth, as it meets the needs of agricultural production, ensures the development of industry, construction of infrastructure facilities, and influences the development of the investment climate of the state. That is why the legal regulation of land relations in the Republic of Kazakhstan combines both constitutionally mandated rules on the state's ownership of land and subsoil and flexible mechanisms for transferring certain plots to private ownership and use. According to the Constitution of the Republic of Kazakhstan (1995), the state regulates land use, but it can delegate certain powers to local authorities, giving aims the right to dispose of land for the needs of regional development and social projects. At the same time, the key principles of land use, alienation, and protection are formulated in the Land Code of the Republic of Kazakhstan (2003), which makes provision for concrete types of land rights (private ownership, permanent land use, lease, easement, etc.), and defines legal regimes for different categories of land – from agricultural land to land of settlements or reserve land. All these provisions are intended to reconcile economic interests, public needs, and environmental standards, specifically regarding soil fertility and the rational use of resources.

The state land cadastre is one of the crucial elements of the current system of land relations regulation, which enables the registration of existing land resources, fixing the boundaries of plots and controlling their intended use. The cadastre data should be publicly available to minimise corruption risks and simplify the procedure for verifying the legal status of land. In this context, the government of Kazakhstan is introducing electronic platforms that provide quick access to cadastral data and allow potential investors to quickly verify information about available plots. For instance, the official portal Adilet.kz contains the latest versions of laws and regulations governing land relations and provides links to the land cadastre database. Despite the advances in the field of informatisation, researchers point to shortcomings in the practice of applying land legislation due to the need for frequent revisions and amendments to regulations to align them with the real needs of local communities and investors. Specifically, there are frequent complaints about non-transparent procedures for allocating land for housing or socially important facilities, as well as a complex system of approvals for transferring land from one category to another, which sometimes hinders economic activity.

Researchers have considered this problem from different perspectives. In the study on reforming land relations in Kazakhstan, A. Mukhtarova (2023) focused on the historical specifics of Kazakh land use, where conventional farming practices continue to exist alongside modern agricultural holdings and developed commercial farms. This combination creates further challenges for regulators, as legislation must account for the various ways of managing land, which involve distinct legal statuses of land plots. M. Spies *et al.* (2023) conducted a comparative analysis of agrarian transformations in Central Asian economies, emphasising the significance of stable legal institutions and overcoming historical dependencies to promote sustainable rural development. O. Abraliyev *et al.* (2024), drew analogous conclusions, examining the optimisation of irrigated agriculture in Kazakhstan in terms of the adequate balance between state regulation and the expansion of private initiative. The researchers pointed out that although the legislation establishes a fairly clear framework, the details

often leave room for ambiguous interpretation, which can be used by unscrupulous actors to obtain land without due regard for the public interest. For a better understanding of the structure and specifics of legal regulation of various categories of land, it is proposed to consider their systematic classification (Table 1).

Table 1. Categories of land and their legal regulation in the Republic of Kazakhstan

Land category	Legal regime	Target purpose	Authorities responsible	Notes
Agricultural lands	Private ownership, lease, permanent land use	Crop production, animal husbandry	Ministry of Agriculture, local akimats	Responsibility for preserving soil fertility and rational use of resources
Lands of settlements	Private property, municipal property	Residential, commercial, and social construction	Local akimats	Necessity of adherence to urban planning standards
Lands for industry, transport, communications	Communal or state ownership, possibility of leasing	Construction and operation of industrial and infrastructure facilities	Ministry of Industry and Infrastructure Development	Simplified procedures for strategic investors
Lands of the nature conservation fund	State-owned property	Nature protection, ecosystem conservation	Ministry of Ecology, Geology and Natural Resources	It is forbidden to change the intended purpose
Reserve lands	State property, temporary lease	Reservation for future use	Local akimats	Clearly regulated procedures for changing status

Source: created by the authors based on the analysis of the Constitution of the Republic of Kazakhstan (1995), Land Code of the Republic of Kazakhstan (2003) and findings of G. Kurmanova (2024b)

The classification of land presented in Table 1 demonstrates the complex nature of the land relations system in the Republic of Kazakhstan, which reflects a multi-level approach to land management, considering its specificity and social significance. Particular attention in this system is paid to the separation of powers between various state and local authorities, which ensures more effective control over the use of land resources and compliance with the established requirements. Another significant aspect is the clear definition of possible forms of ownership and conditions of use for each category of land, which creates a transparent legal framework for all participants in land relations. The system accounts for both the economic interests of the state and private owners, as well as the need to preserve natural resources and ensure sustainable development of territories. This balanced approach enables effective regulation of land relations while protecting the public interest and creating favourable conditions for economic development. Notably, each category of land has specific requirements and restrictions that factor in the specifics of its use and potential risks that may arise when changing its designated purpose or form of ownership. This creates an extra level of protection of strategically significant land resources and ensures their rational use according to the state development priorities. The system also allows adapting to changing economic conditions through lease and temporary use mechanisms, which makes it flexible enough to meet the needs of various categories of land users.

The legal regulation of land use in Kazakhstan encompasses a comprehensive approach to the distinction between state, municipal, and private property, with the term “land use” often interpreted as the right to own and use land without a final transfer of title (Buribayev *et al.*, 2020). This approach is reflected in the Land Code of the Republic of Kazakhstan (2003) (Articles 20-23) and establishes the procedure for entering into lease agreements with both Kazakh citizens and foreign investors. For the latter, there are certain restrictions on lease terms and designated purposes, as well as requirements to follow environmental legislation and preserve the agricultural potential of the plots. In case of breach of contract or inefficient use of the land, the state is entitled to withdraw the land plot with compensation for losses. At the same time, the process of land acquisition for state needs (e.g., for the construction of roads or social infrastructure) is often accompanied by property disputes, as not all owners agree on the estimated value of the land or the terms of compensation (Judge of the..., 2017). That is why state institutions are constantly improving mechanisms for the legal resolution of such conflicts and increasing the transparency of procedures through the publication of cadastral data, organisation of public hearings, and expanding access to electronic services.

A. Gregoire *et al.* (2024) confirmed the existence of these legal requirements but revealed substantial shortcomings in their practical implementation. The researchers documented that the implementation of environmental protection measures is hampered by outdated soil monitoring methods and limited funding for technological modernisation. These conclusions were further supported by O. Alipbeki *et al.* (2025), who found a direct link between the lack of comprehensive environmental monitoring and the deterioration of land quality in certain regions of Kazakhstan. Their analysis showed that the imperfections of control systems create long-term risks for the agricultural sector and rural communities, despite the existence of relevant provisions in the Land Code of the Republic of Kazakhstan. According to the Senate of the Parliament of Kazakhstan (Bill on digitalisation..., 2023), the government is implementing comprehensive reforms to improve the efficiency of land management. Specifically, legislative initiatives are aimed at improving the land cadastre, which allows for automated land registration, transparency of land allocation, and increased responsibility for their irrational use.

Notably, the international community is paying attention to land reforms in Kazakhstan in view of the country’s potential to supply the global market with grain, meat, and other products. Some recommendations by United Nations bodies and specialised agencies, such as the Food and Agriculture Organisation (2014), emphasise the need to maintain the sustainability of land resources and to use

innovative technologies in agriculture. Finding a balance between attracting private capital and ensuring compliance with environmental requirements is particularly urgent in arid regions, where improper land use can lead to degradation of pastures and reduction of freshwater reserves (Bryn-zanska, 2024). Thus, it can be argued that the current system of legal regulation of land relations in Kazakhstan is multi-component and dynamic: it consists of constitutional provisions on state ownership of land, fundamental provisions of the Land Code of the Republic of Kazakhstan (2003) on land categories, complex lease procedures, cadastral registration mechanisms, and environmental regulations on the protection of fertility and natural resources.

An analysis of the legal regulation of land relations in post-Soviet countries revealed a substantial diversification of approaches to reforming this area, as evidenced by the adoption of a series of progressive legislative acts in neighbouring countries. Specifically, since 2020, Uzbekistan has had a Law of the Republic of Uzbekistan No. ZRU-728 "On Privatisation of Non-Agricultural Land Plots" (2021), which, unlike the more conservative Kazakh approach, expands the opportunities for privatisation of non-agricultural land for citizens and enterprises, while Kyrgyzstan has focused on decentralising land management by empowering local authorities, which has optimised land rights registration procedures and reduced administrative burdens.

A comparative legal analysis of these reforms with Kazakh practice showed the need to introduce a more balanced approach to the modernisation of land relations, which should be based on a combination of market mechanisms and protection of national interests, while the practices of neighbouring states demonstrate the possibility of successful reform of land legislation through the introduction of transparent privatisation mechanisms (following the example of Uzbekistan), decentralisation of land management (as in Kyrgyzstan), and balanced liberalisation of land use.

The Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests for National Food Security by Food and Agriculture Organisation (2022), adopted by the United Nations Committee on Food Security in 2012, provide an essential benchmark for improving this system. They offer a comprehensive approach to regulating the ownership and use of natural resources, focusing on transparency of decisions and procedures, protection of the rights of local communities, and adherence to the principles of sustainable development. For Kazakhstan, which has a variety of climatic conditions, this means strengthening open access to cadastral information, establishing clear mechanisms for resolving land disputes, ensuring conventional access to pastures for nomadic and semi-nomadic communities, and implementing preventive environmental measures to avoid land degradation (Kovach *et al.*, 2024). Among the international initiatives with which Kazakhstan's system is compared, the United Nations Sustainable Development Goals deserve special attention, particularly Goal 2 (End hunger, achieve food security, improve nutrition, and promote sustainable agriculture) and Goal 15 (Protect and restore terrestrial ecosystems and promote their sustainable use). In this context, it is emphasised that the institutional capacity of state authorities should be strengthened, modern land monitoring technologies (remote sensing, geographic information systems) should be widely used, environmental audit mechanisms and a licensing system for water resources protection should be introduced, and transparent conditions for attracting private investment should be created.

Analogous recommendations were also made in reports and support programmes from the World Bank (1994), the United Nations Development Programme (United Nations, 2021), the European Bank for Reconstruction and Development (2022), the Organisation for Security and Co-operation in Europe (2016), and the Organisation for Economic Co-operation and Development (2014). They emphasise the significance of reforms aimed at decentralising land management, involving local communities in decision-making, transparent registration of property rights and use rights, and systematic environmental protection at the regional level. There is a particular need to improve the mechanisms for protecting the rights of landowners and land users, specifically by simplifying the procedure for judicial or administrative review of disputes and introducing effective mechanisms to counteract raiding. In the arid regions of Kazakhstan, where the threat of desertification is real, the introduction of environmentally friendly technologies, such as minimal or 'zero' tillage and the rational use of irrigation systems, is particularly significant to prevent the loss of biodiversity and degradation of pastures. Thus, an analysis of the compliance of Kazakhstan's legislation and practices with international requirements and standards shows the need for a comprehensive approach that covers economic, legal, and environmental aspects. Considering Kazakhstan's role as one of the largest suppliers of grains and oilseeds in Central Asia and its significant raw material potential, the compliance of the national land regulation system with international standards is crucial for attracting responsible investment, ensuring food security and preserving the environment. This contributes to social stability and the development of the foundations for the country's long-term sustainable development.

The current legal regime is the result of a long evolution, starting from the first years of Kazakhstan's independence, when the country made a transition from purely state-owned Soviet-style property to a multi-faceted system with various forms of land use. At the same time, this regime still requires further improvement, primarily in terms of ensuring transparency in land allocation, ensuring equal opportunities for small farmers and large agricultural holdings, and unifying regional rules and procedures to prevent administrative abuse. This is confirmed by the violations detected, namely, that the Commission for Land Acquisition has identified over two thousand illegal decisions of local executive bodies to allocate farmland without holding tenders. At the same time, the country's leadership emphasises the need for a differentiated approach: if land is taken in violation of the law and is not used, it should be returned to the state under a simplified procedure, but if the land user works in good faith and has invested, the existing production should not be destroyed. The work on the development of villages and the provision of permanent employment for rural residents is also considered (Address of the Head of state..., 2024).

The current system of regulation of land relations in the Republic of Kazakhstan can be characterised as an attempt by the state to combine the constitutional principle of the national value of land with market mechanisms for its disposal, which are developed based on the competitiveness and investment attractiveness. Although the mechanisms of private ownership and lease generally have sufficient

formal guarantees, their effectiveness largely depends on the performance of local authorities (akimats), the level of digitalisation of the cadastre, and the availability of judicial protection. The state's right to seize land for public needs also forms an integral part of the system, but it should be exercised within the framework of clearly defined legal procedures with adequate compensation to owners.

Socio-economic consequences of legal regulation of land resources for various categories of the population of Kazakhstan. Land regulations governing ownership and lease of land plots, the procedure for their intended use, and procedures for state expropriation have created opportunities, which are both accessible and controversial, in multiple sectors of the economy. Specifically, there are three key groups that are most markedly affected by the current land legislation: small farmers, local communities (with social needs for land), and large agricultural holdings and industrial companies. Each of these groups benefits from legal guarantees and regulatory incentives, but also faces certain obstacles related to imperfect enforcement, corruption risks, or lack of infrastructure.

The Land Code of the Republic of Kazakhstan (2003) establishes procedures for accessing land resources through tenders and auctions, which formally should ensure equal opportunities for all market participants. However, V. Kvartiuk and M. Petrick (2021) refuted the effectiveness of these mechanisms in practice. Their analysis documents the existence of substantial barriers for small farmers, including excessive bureaucracy and limited access to finance. H. Alff *et al.* (2023) further confirmed these findings, noting that the problem is particularly acute in the border regions of Kazakhstan. The researchers found that local farmers in these regions face a double burden: apart from general obstacles to accessing land, they are also limited in their ability to use cross-border infrastructure and access international markets, which contradicts the principles of equal access declared in the Land Code.

According to the Bureau of National Statistics of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan (2024b), as of 2023, 1.1 million people were employed in Kazakhstan's agriculture, of whom more than half were self-employed. Remarkably, their salaries are almost twice as low as the national average, indicating a strong level of informal employment and low social protection for rural workers (Batalova, 2024). According to the official data of the Bureau of National Statistics of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan (2024a) published in the report on the state of land relations for 2023, only 6% (or 487 out of 8,116 allocated land plots) were used by small farms during the year, while the bulk was distributed among medium and large enterprises. As a result, small farmers suffer from a lack of available land resources, which substantially limits their ability to upscale their production and reduces their contribution to the country's food security.

Local communities face issues of obtaining land for housing construction, social facilities (schools, hospitals, cultural institutions), and municipal infrastructure. Constitution of the Republic of Kazakhstan (1995) obliges the state to make provision for the common good, but the concrete mechanisms for land allocation at the local level sometimes are still opaque or overly complicated, causing delays and social tensions. As a result, not all categories of citizens can quickly register a plot for individual construction or obtain land for projects aimed at meeting community needs.

The economic context of these problems is also reflected in the sector's development indicators: in 2023, gross output of agriculture, forestry, and fisheries totalled 7,625,150.9 million tenge, while the index of physical volume of gross output decreased by 8.3% compared to the previous year (Bureau of National Statistics of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan, 2024b). However, in January-September 2024, there was a positive trend with a 10.8% increase in gross output compared to the same period of the previous year (Bureau of National Statistics of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan, 2024a). A comparative analysis with neighbouring countries revealed a direct link between the efficiency of land allocation and agricultural productivity. For instance, in Kazakhstan, despite major public investment, the agricultural sector demonstrates low efficiency due to suboptimal land allocation and limited access to finance for farmers (Halyk Research, 2024a). M. Junussova (2020) confirmed this observation, noting that the reason lies in the lack of coordination between different levels of government, which is conditioned by the uneven implementation of administrative, financial, and political decentralisation reforms. Furthermore, the researcher noted that limited access to centralised databases and weak interaction between local authorities and citizens, which complicates the effective resolution of urban development issues. The lack of clearly regulated procedures and effective channels of public control can facilitate abuses, when people with close ties to the authorities or investors offering favourable conditions get preferential access to land. Therewith, some applicants – citizens in need of land plots for housing construction – are forced to wait for years, as there is little free land left in the suburbs of large cities, while remote areas are often unsuitable for effective development due to the lack of utilities (Analytical report on..., 2016).

As for large agricultural holdings and industrial companies, the economic effects of these entities are quite significant. Thanks to their substantial financial resources and the ability to attract investment in the global market, they acquire large tracts of leased land and implement large-scale innovative projects. The largest agricultural holdings in Kazakhstan demonstrate a considerable concentration of land bank. For example, according to the ElDala.kz rating, in 2023, Olzha Agro cultivated 960 thousand hectares of land, Atameken Agro – 441 thousand hectares, and TNK Agrofirm – 430 thousand hectares. This concentration of land resources in the hands of the largest agricultural enterprises helps to increase the production of grain crops and meat products, ensuring the stability of supplies in the internal and external markets (The SKO is…, 2022). Therewith, major sectoral imbalances are observed: labour productivity in Kazakhstan's mining industry in 2023 was twice as high as in the manufacturing industry and twenty times greater than in agriculture (Halyk Research, 2024b). This gap points to the need to balance the development of different sectors of the economy and support the diversification of agricultural production. R. Burgess *et al.* (2023) partially explained these disparities, confirming the positive role of large companies in the technological development of the industry due to their ability to finance innovations and infrastructure projects. However, the researchers also identified substantial risks of

this concentration of resources, including the possibility of land monopolisation by certain groups, which could threaten the economic diversity and social stability of the regions.

To better understand the diversity of the effects of regulatory mechanisms in the land sector on different groups of the population, Table 2 summarises the key aspects of this impact.

Table 2. Effects of regulatory instruments on key socio-economic groups in Kazakhstan

Regulatory instrument	Smallholder farms	Local communities	Large agricultural holdings and industrial companies
Land tenders and auctions	Often lack access due to the lack of information on the terms and dates of auctions	Rarely involved due to the lack of need for large areas	An advantage due to the availability of specialised teams for participation and legal support
Local development support programmes	Not available due to lack of integration with local initiatives	Can obtain resources for social projects, but the mechanisms are complicated	Used to create the infrastructure that supports the production base
Mechanisms for changing the designated purpose of land	Not available to small farmers due to the excessive cost of the procedure	Used by local authorities to build schools and hospitals	Actively used to consolidate land for large agricultural or industrial projects
Long-term lease of state land	Usually limited to small areas (up to 5-10 hectares)	Only available for particular facilities (schools, hospitals)	Easy access to large areas due to financial resources and long-term contracts
Water use and irrigation	Insufficient modernisation of systems; high dependence on seasonality	Used for public water supply, but the infrastructure is often outdated	Create their own water supply systems, minimising dependence on public resources
Environmental standards	Lack of knowledge about the requirements of environmental legislation	Mostly focused on basic environmental requirements	Must meet strict standards to maintain access to international markets
Land dispute resolution procedures	Insufficient access to qualified legal aid; delays in processes	Public councils are often ineffective due to the lack of mechanisms of influence	Use professional lawyers to expedite the resolution of disputes in their favour
Integration of digital cadastres	Limited access to information due to lack of technology in rural areas	Helps communities, but the information is often incomplete or outdated	Used as part of integrated monitoring and management of large areas

Source: compiled by the authors based on the findings of G. Kurmanova (2024a; 2024b)

Table 2 demonstrates that the regulatory environment in the field of land relations in Kazakhstan is characterised by substantial differences in the ability of various categories of land users to access and use the available instruments. The systematic review demonstrates the existence of structural imbalances that manifest themselves in all key aspects of land relations – from mechanisms for obtaining land plots to the possibilities of resolving legal disputes. The differences in the technological and administrative capabilities of various categories of land users are particularly noticeable, creating preconditions for uneven development of the agricultural sector. Regulatory mechanisms, which should theoretically ensure equal opportunities, in practice often work in favour of large market players who have more resources to overcome administrative barriers and build the necessary infrastructure (Ministry of Agriculture of the Republic of Kazakhstan, 2023). At the same time, small farmers and local communities face numerous obstacles, ranging from limited access to information to challenges in obtaining necessary permits and approvals (Putri and Ehsonov, 2024). These systemic challenges call for a comprehensive review of existing approaches to land regulation to create a more balanced system that accommodates the interests and capabilities of all market participants.

Considering the interaction of these groups, the legal regulation of land relations can both stimulate and hinder the economic development of Kazakhstan's regions. On the one hand, the existence of a lease system, defined privatisation rules, and relatively liberal legislation on attracting foreign investors increases the investment attractiveness of the state and facilitates capital inflows. U. Alban Singirankabo and M. Willen Ertsen (2020) confirmed this, finding a positive relationship between transparent cadastral procedures, formalisation of land rights, and economic growth, especially in rural areas. On the other hand, imperfect legal regulation can lead to an imbalance in the distribution of land resources between entities of distinct legal forms of business. This provides investors and landowners with long-term security of tenure or lease, which encourages long-term investment in agricultural development, increases productivity, and contributes to economic stability. At the same time, if the regulatory framework does not ensure equal access to land resources for small agribusinesses and large agro-industrial enterprises, there are risks of economic stratification and increased social inequality. The lack of unified mechanisms for resolving land disputes, corruption schemes and inefficient use of resources may lead to conflicts between residents and large companies, specifically over rent, lease terms, and compensation for land acquisition.

Social risks are particularly significant in areas with competition for the best land plots. This may include, for instance, farmers competing with industrial enterprises for water resources and pastures, or conflicts over the change of land use (from agricultural to industrial or commercial). Moreover, inequality in access to land can increase the outflow of people from villages, reducing the chances for self-employment and the development of small businesses in rural areas (Syrov, 2024). In this case, limited opportunities for farming or social projects become a catalyst for migration to urban areas, which increases the burden on urban infrastructure.

Proper legal regulation of land relations is crucial for ensuring the balanced development of the country, as it

combines legal, economic, and social factors. Firstly, from a legal standpoint, it is necessary to ensure clear criteria for land allocation, transparent tender procedures, and effective mechanisms for appealing decisions made by local authorities. Secondly, economic factors require incentives to attract investment, develop the agricultural and industrial sectors, and support small businesses. The social aspects of land use are directly correlated with ensuring the rights of socially vulnerable categories of the population, preventive measures to prevent conflicts, maintaining employment, and structural diversification of the agricultural sector. Regulatory frameworks focused exclusively on supporting large agro-industrial entities without considering the interests of local communities and small businesses in agriculture create risks of degradation of the socio-economic potential of rural areas in the long term. Therefore, the state policy should be aimed at implementing a balanced system of market and regulatory mechanisms that will ensure best distribution of land resources to meet the public interest and guarantee the environmental and food security of the state.

Thus, the socio-economic consequences of legal regulation of land resources in Kazakhstan best illustrate the complexity and multidimensional impact of land laws on various sectors of the economy and population groups. Positive aspects, such as the growth of large-scale agricultural production and the expansion of the industrial base, can be accompanied by detrimental effects on small farms, communities, or the environment unless state control and public oversight are strengthened. Balanced development in the land sector is only possible if legislative requirements are constantly improved, considering the real practice of their application, gaps in regulation are promptly identified and closed, while active cooperation between state institutions, business, and public associations is ensured. It is an integrated approach based on social justice, investment attractiveness, and environmental safety that can ensure sustainable use of land resources in the future.

Analysis of the problems of law enforcement and conflicts in land relations in Kazakhstan and ways to ensure the balance of interests. One of the most acute contradictions arises between the state, which seeks to implement national priorities, and local communities, which defend their direct interest in access to land. At the same time, the intensification of investment activity, particularly involving foreign capital, is becoming a crucial factor in the transformation of land relations. Investors consider land resources as a strategic economic asset and require the development of relevant regulatory frameworks and a favourable investment climate for conducting business. As a result of this interaction, triangular conflicts are formed, manifested in problems of public access to land, non-transparent allocation of land plots for social needs, and local fears of monopolisation of land by foreign companies.

One of the most common sources of conflict is the complexity or lack of transparency of land acquisition procedures. The Land Code of the Republic of Kazakhstan (2003) stipulates that the competitive allocation of land plots is conducted through open bidding for the granting of the right to temporary paid land use (lease) for farming or agricultural production. Tender announcements are published in official sources, while participants submit applications that include a business plan with projected investments, land use plan, availability of equipment and estimated number of jobs. Applications are evaluated by a land commission, which gives preference to local residents who have lived in the region for more than five years, as well as agricultural cooperatives, which can receive additional points. The results of the tender are recorded in the minutes, which serve as the basis for concluding a lease agreement, after which the local executive body decides on the granting of land use rights. However, according to the results of public monitoring, the practical implementation of these procedures is accompanied by substantial obstacles for citizens: excessive length of bureaucratic processes, ambiguous interpretation of legislative provisions by local authorities and insufficient awareness of applicants regarding the full list of required documents and the procedure for their submission. D. Rodima-Taylor (2021) addressed the same issue, confirming that even with formalised tender procedures, it is the imperfection of administrative mechanisms that creates serious obstacles for potential land users. Specifically, the researcher emphasised that the lack of digital management tools and transparent public registers has a particularly negative effect on access to land resources for residents of remote regions who have limited opportunities to take part in tenders promptly and appeal against decisions of local authorities. The problems of transparency in the field of land relations are still relevant for Kazakhstan. For example, an external analysis of corruption risks related to the distribution and availability of land plots for business was conducted in the North Kazakhstan region. The identified risks indicate potential abuses in the allocation of land, which can create unfair conditions for ordinary citizens and small businesses, giving way to influential structures (The SKO is…, 2022). The absence of transparent mechanisms for the allocation of land for social needs is manifested, specifically, in the construction of residential complexes, schools, or other socially significant facilities. According to the legislator, the state should prioritise such projects based on the Constitution of the Republic of Kazakhstan (1995) and the objectives of socio-economic development of the regions, but in reality, the opposite is sometimes the case.

In a series of cases considered by courts of various instances, facts have been established when plots where it was planned to build a hospital or kindergarten were eventually re-profiled for commercial development with reference to a “change of purpose”. Specifically, in a case brought by M LLP against the city Akim, a violation of the mandatory rules on the provision of a land plot on a competitive basis was established, with the local courts unlawfully applying the principle of protection of the right to trust, as such an administrative act affected state and public interests. In another case brought by M., the courts ruled that it was unlawful to adjust the detailed planning project without considering the public opinion and proper substantiation. Therewith, the land plot had not been used for its intended purpose for a long time, while frequent changes in planning were the outcome of inaction by regulatory authorities (Judicial Collegium on Administrative Cases of the Supreme Court of the Republic of Kazakhstan, 2023). On 1 July 2023, amendments to the Land Code of the Republic of Kazakhstan (2003) came into force, establishing clearer requirements for changing the designated purpose of land plots and strengthening control over the observance of the public interest in making such decisions. This observation is confirmed by a comprehensive study by M. Romashchenko *et al.* (2022), who

conducted a comparative analysis of land management practices in post-Soviet countries. The researchers found a direct correlation between the systemic problems recorded in the decisions of the Supreme Court of Kazakhstan and the general tendency to unlawfully change the designated purpose of land. Researchers have documented that the lack of transparent regulatory and control mechanisms creates favourable conditions for violations, especially in relation to land originally allocated for social infrastructure. This problem can be solved through the creation of a clear legislative framework that will make provision for mandatory public involvement in decision-making and monitoring of land use. In cases such as Kazakhstan, it is particularly important to integrate national legislation with international standards to ensure that land is used properly in the public interest.

The issue of land lease by foreign investors is a particular source of conflict, as it raises the sensitive issue of preserving national interests and food security (Koshkinbaeva *et al.*, 2019). The Land Code of the Republic of Kazakhstan (2003) prescribes the possibility of leasing land plots to foreign entities but sets certain restrictions on the terms and scope of use. According to the Code, foreign legal entities and companies with foreign participation may lease land plots only for non-agricultural purposes, such as industrial construction, transport infrastructure, and strategic projects. Therewith, leasing of agricultural land by foreigners is prohibited. Lease agreements are concluded for a fixed term, which depends on the terms of a particular project and is agreed according to the applicable legislation. There is a separate ban on the provision of land in border areas for national security reasons. R. Pomfret (2021) confirmed the validity of the legal restrictions on foreign land use established in the Land Code of the Republic of Kazakhstan. The researcher argued that in Central Asian countries, imperfect institutional mechanisms and corruption risks create preconditions for the potential concentration of land resources in the ownership of large foreign investors, which may pose a threat to national interests. In the context of land legal relations in the Republic of Kazakhstan, the issue of long-term lease of land plots by foreign business entities is becoming increasingly relevant. The primary subject of discussion is the potential risks associated with granting the right to use significant land tracts for up to several decades, which may effectually lead to concentration of control over strategic land resources in the hands of foreign investors. This causes social tensions, especially in rural areas. The validity of such warnings is confirmed by the insufficient effectiveness of the state control and monitoring system: there are cases of violation of environmental standards of land use and misuse of land plots without obtaining relevant permits.

Based on the conducted study, a set of recommendations was developed for improving the legal regulation of land relations in the Republic of Kazakhstan. The key element is the creation of open registers and public cadastres, where information on land plots would be available not only to the authorities but also to the general public (Pryz, 2024). This initiative is in line with the recommendations set out in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security by Food and Agriculture Organisation (2022). This document emphasises the significance of transparency and openness of cadastral data to ensure effective and responsible management of natural resources. Adherence to these principles contributes to increased transparency, reduced corruption and equitable access to land resources, which are key factors for sustainable development and national food security. The availability of a unified electronic platform will enable control over who and on what grounds the land has been transferred to and will also enable the detection of potential violations in real time.

The introduction of electronic services for obtaining and registering land is intended to reduce the impact of the human factor and corruption risks. Q. Abbas *et al.* (2024) confirmed the effectiveness of this approach, noting that the digital transformation of governance, particularly through the introduction of cloud technologies, can considerably increase the transparency, accessibility, and efficiency of administrative services. Using the example of Pakistan, the researchers showed that the use of modern technologies, such as big data and cloud services, can optimise e-government processes, making them more accessible to citizens. This also helps to reduce the number of complaints and increase the level of public satisfaction with administrative services. Although such services are only at the stage of partial implementation in Kazakhstan, their further development could offer citizens more equal opportunities in accessing land. Considering the practices of other countries, such as Pakistan, the integration of modern technologies into the land management system could be a major step towards increasing the efficiency and transparency of public administration.

Legislative strengthening of the role of local communities would enable more active monitoring of land allocation and use. A. El-Wakil (2020) argued that systematic community involvement in decision-making, including local referendums on the most high-profile projects, reduces social protests and strengthens the legitimacy of the authorities. In the context of Kazakh law, this approach is consistent with the provisions of the Constitution of the Republic of Kazakhstan (1995) on democracy and can be specified in the Land Code of the Republic of Kazakhstan (2003) through the lens of mandatory public hearings. Such a practice would help communities receive prompt information about future investors, draft alternative proposals, and monitor the environmental component of projects at the stage of preliminary discussions.

It is also necessary to develop clear criteria for foreign investors' access to land resources. These could include limits on the maximum lease area, requirements for social impact (e.g., job creation, infrastructure development, compliance with soil fertility conservation technologies), and a transparent system for reviewing investment agreements. The Land Code of the Republic of Kazakhstan (2003) contains articles that enable the state to terminate lease agreements in case of unfair use of land plots. Specifically, Article 92 regulates the compulsory acquisition of land plots in case of their improper use, while Article 94 prescribes the possibility of terminating a lease agreement due to a systematic breach of obligations by the land user. At the same time, court practice shows that these provisions are not yet sufficiently detailed, and land expropriation procedures can be delayed due to the complexity of the evidence base and the length of the administrative process.

From a legal standpoint, the proposed measures are consistent with constitutional provisions that mandate state ownership of land and the right of the state to determine its distribution in the public interest. In the context of the

Land Code of the Republic of Kazakhstan (2003), they can be implemented both in the form of targeted amendments to certain articles and the adoption of sub-legislative acts detailing control and monitoring procedures. Furthermore, the principles of Responsible Governance of Tenure developed by the Food and Agriculture Organisation (2022) emphasise that the state should establish clear criteria for transparency, ensure open access to land for multiple groups of people and prevent the accumulation of excessive land holdings in the same hands without public control.

In summary, the issue of conflicts of interest between the state, local communities, and investors is not limited to the legal aspect – it also includes social, economic, and environmental dimensions. If the state does not implement a systematic approach with transparent cadastres, public involvement, and clear rules for access to land, this could lead to long-term polarisation of the population and instability in critical sectors of the economy. On the other hand, successful examples of reforms in some countries show that proper legal design can harmonise the interests of large businesses and small farmers, ensure fair distribution of resources for social projects, and attract responsible investors willing to play by the rules. Kazakhstan, with its considerable potential as an agrarian and industrial country, can take advantage of the recommendations of international organisations and its own practices by legislatively prescribing mechanisms that minimise conflicts in the land sector and promote sustainable development. This is the only way to ensure a real social balance, guarantee food security, and strengthen the country's investment attractiveness in the long term.

Conclusions

The study of the legal regulation of land relations in the Republic of Kazakhstan revealed a comprehensive system of regulations, which combines constitutional guarantees of state ownership of land with mechanisms for transferring land plots for private use and lease. At the same time, it was found that the practical implementation of legal provisions is accompanied by considerable challenges, particularly in ensuring equal access to land resources for various categories of the population and protection of their rights.

The fundamental problem was found in a substantial disproportion in the capabilities of various subjects of land relations. Large agricultural holdings and industrial companies, with extensive financial resources and professional legal support, have preferential access to land resources and are more effective in protecting their interests. Meanwhile, small farmers and local communities face numerous bureaucratic obstacles, lack of transparency in land allocation procedures, and limited access to legal aid. The problem of access to agricultural land is particularly acute, with only 6% of allocated plots going to small farms, which substantially limits the potential for small agribusiness development and poses risks to the country's food security. An analysis of the legal regulation of long-term land leases by foreign investors has revealed potential risks of excessive concentration of land resources, which may adversely affect the structure of land use and the state of food security.

A comparative analysis of the practices of neighbouring countries (Uzbekistan, Kyrgyzstan, and Georgia) revealed promising areas for reforming land legislation, specifically, transparent privatisation of non-agricultural land, decentralisation of land management, and balanced liberalisation of foreign investors' access to the land market. Therewith, the analysis of the legal regulation of long-term land lease by foreign investors revealed potential risks of excessive concentration of land resources, which could adversely affect the structure of land use and the state of food security.

The study revealed systemic shortcomings in the mechanisms for controlling land use and resolving land disputes. Specifically, the absence of a unified electronic land cadastre platform and limited access to information on available land plots create preconditions for corruption risks and non-transparent resource allocation. Insufficient integration of environmental requirements into land use practices is still a fundamental problem, leading to soil degradation and deterioration of agricultural land quality. Therewith, the mechanisms of liability for violations of environmental standards are often ineffective due to the challenges of proving violations and the time-consuming nature of court procedures.

Further research should focus on the mechanisms of digital transformation of land administration, the development of tools to protect the rights of vulnerable categories of land users, and the analysis of the effectiveness of various models of public control over the use of land resources in the context of growing competition for access to land.

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Conflict of interest

None.

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Соціально-правові проблеми правового регулювання земельних відносин в Республіці Казахстан

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Анотація. Метою цього дослідження було виявлення системних проблем правового регулювання земельних відносин у Республіці Казахстан. У дослідженні використано поєднання інституційного та системного підходів для комплексного розгляду земельних відносин як єдиної регуляторної системи, що поєднує правові норми, соціально-економічні механізми та адміністративну практику. Дослідження виявило суттєві диспропорції у доступі різних категорій землекористувачів до земельних ресурсів, де лише 6% виділених ділянок перебувають у власності малих фермерських господарств, тоді як великі агрохолдинги, маючи значні фінансові ресурси та професійний юридичний супровід, мають преференційний доступ до земельних ресурсів. Виявлено системні недоліки в механізмах контролю за використанням земель, зокрема відсутність єдиної електронної платформи земельного кадастру та обмежений доступ до інформації про вільні земельні ділянки, що створює передумови для корупційних ризиків та непрозорого розподілу ресурсів. Вказано на проблеми з недостатньою інтеграцією екологічних вимог у практику землекористування, що призводить до деградації ґрунтів, а також неефективними механізмами відповідальності за порушення екологічних стандартів через складність доведення порушень та тривалість судових процедур. Окремою проблемою є обмежена роль місцевих громад у процесах управління земельними ресурсами та непрозорість процедур виділення земельних ділянок для суспільних потреб, що створює передумови для соціальної напруги. На основі порівняльного аналізу практики інших держав (Узбекистану, Киргизстану, Грузії) та рекомендацій міжнародних організацій у дослідженні розроблено комплексні пропозиції щодо вдосконалення правового регулювання, які включають створення відкритих реєстрів та публічних кадастрів для забезпечення широкого доступу громадськості до інформації про земельні ділянки; запровадження електронних сервісів для спрощення процедур отримання та реєстрації земельних ділянок; посилення ролі місцевих громад через механізми громадського контролю; встановлення чітких критеріїв для доступу іноземних інвесторів до земельних ресурсів. Запропоновані заходи спрямовані на забезпечення більшої соціальної справедливості та економічної ефективності у сфері земельних відносин в Казахстані, а отримані висновки можуть слугувати основою для подальшого вдосконалення правового регулювання у цій сфері та розробки механізмів цифрової трансформації управління земельними ресурсами

Ключові слова: агрохолдинги; громада; державне управління; екологічна безпека; інвестиційна привабливість

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Legal transfer of EU laws to Uzbekistan in the field of green economy

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Abstract. The aim of this study was to examine the specifics of the legal transition of EU laws to Uzbekistan in the field of green economy. The study focused on analysing the compatibility of current Uzbek legislation with EU standards and identifying potential areas for harmonisation of the legal framework. The study utilised a comparative legal analysis methodology examining relevant EU directives, regulations and policies, as well as Uzbekistan's national laws and policies related to green economy development. It was shown that although Uzbekistan has made progress in aligning its legal framework with EU standards, there are still gaps and challenges that need to be addressed. The study emphasised the importance of adapting EU laws to the specific context of Uzbekistan, taking into account its socio-economic conditions, institutional capacities and environmental priorities. In addition, some German regulations have been analysed, and it is concluded that these, among other things, can be used as a basis for establishing its own legal and regulatory framework. The study also identified key areas that are worth paying particular attention to in legal transfer, such as renewable energy, energy efficiency, sustainable agriculture and green finance. The conclusions emphasised the need for a holistic and gradual approach to legal transfer, including stakeholder engagement and the implementation of monitoring mechanisms. The study contributes to a better understanding of legal harmonisation processes between the EU and third countries in the field of the green economy, providing information for policymakers, legal practitioners and researchers

Keywords: sustainable development; green course; regulatory framework; renewable energy sources; climate

Introduction

Already in the 20th century, the world community has become aware of the prospects of significant environmental challenges that can negatively affect, among other things, the economic and environmental situation in all countries of the world. Since the EU as an association of countries is one of the leaders in this area, the study of the possibilities of gaining the experience of its member countries (as well as the association as a single entity) is relevant. The EU has become a world leader in promoting the transition to a green economy, driven by its legal norms and policies. The EU's overarching framework for sustainable development not only shapes the internal dynamics of its member states, but also has a significant impact on third countries. As the EU sets high standards and requirements for environmental protection, renewable energy, energy efficiency, sustainable finance and circular economy, it creates both challenges and opportunities for countries outside its borders to meet these standards and access the EU market (Soderholm, 2020; Barna *et al.*, 2023). This paper assesses the extraterritorial impact of EU legal regulations on the transition to a green economy in third countries, with a particular focus on the case of Uzbekistan.

As a developing country in Central Asia, Uzbekistan is travelling its own path towards sustainable development, influenced by the legal and regulatory frameworks of its main trading partners, including the EU (Serikzhanova *et al.*, 2024). By examining the key EU legal instruments shaping the green economy and their mechanisms of influence, this study aims to draw attention to the complex interplay between EU regulatory power and the sustainable development strategies of third countries such as Uzbekistan. The country faces resource constraints that may make it difficult to implement EU standards. There is a possibility that the transition to a green economy may lead to social and economic costs, especially for vulnerable populations. Therefore, the legal transfer of rules should be gradual and take into account local conditions, and be accompanied by close co-operation between the EU and Uzbekistan and stakeholder participation.

Environmental challenges in Uzbekistan further highlight the necessity of regulatory transition. The country generates approximately 35 million cubic meters of household waste annually, with each citizen contributing around 165 kg per year (Sustainable Development Goals, 2024b). Waste composition includes 50% polymers, exacerbating environmental concerns. Additionally, 80% of Uzbekistan's water resources originate from upstream countries, making transboundary cooperation crucial for sustainable management (Sustainable Development Goals, 2024a). Air pollution is also a significant issue, with mortality from diseases linked

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to household and ambient air pollution recorded at 0.203 per 100,000 population in 2023 (Sustainable Development Goals, 2024c). These indicators emphasise the pressing need for comprehensive environmental policies and the adoption of EU-aligned green economy standards.

The strategic importance of strengthening the relationship between the EU and Uzbekistan was addressed in the study by N.R. Fayzullaeva (2023), examining key areas of cooperation, highlighting existing problems and proposing effective measures to deepen the partnership. In particular, it was noted that the most active cooperation between the associations should take place in the sphere of trade, investments, political dialogue and formation of common initiatives. The possibility of developing cooperation in the direction of education was considered by K. Nilufar (2022), in particular in the context of the Erasmus+ programme. Sh. Tursunova (2020) assessed the formation of the European direction of foreign policy of the Republic of Uzbekistan. It was emphasised that Uzbekistan has a solid legal basis for building long-term mutually beneficial relations with the Benelux and other European countries in trade, economic, humanitarian and social spheres. Attention was also drawn to the need for stronger strengthening of relations between European countries and Uzbekistan for potential additional benefits for the country. F. Dzhamalov and S. Saraev (2022) described the need for a strong link between EU countries and Uzbekistan, also noting that this link has already proven to be sustainable over time, with significant potential for growth in cultural, economic and socio-political co-operation. M. Isakova (2024) examined the growing importance of legal frameworks governing cross-border data transfer in the digital age, particularly focusing on Uzbekistan's efforts to adapt its legislation to the global challenges of information exchange. It was noted that there are problems in the context of the country's legal framework in this direction, and their solution should be an important component of the state's future policy.

R. Bookbinder (2023) notes that European climate norms have significantly influenced the legislative frameworks of nations beyond Uzbekistan. For example, European countries have actively engaged with South Africa to promote the adoption of renewable energy policies. European diplomats met with officials and workers' unions in South Africa's coal-centric Mpumalanga province to discuss transitioning from coal to renewable energy. This initiative is part of an $11.6 billion package funded by wealthy nations to support South Africa, one of the world's top greenhouse gas emitters, in its energy transition. The discussions aimed to address concerns that the transition could lead to economic hardship, highlighting the EU's role in shaping South Africa's legislative approach to energy and environmental policy.

Additionally, N. Korpar *et al.* (2023) discuss the implications of the European Union's implementation of the Carbon Border Adjustment Mechanism (CBAM) for non-EU countries. CBAM imposes levies on imports from nations that do not meet EU environmental standards, creating an economic incentive for these countries to adopt similar carbon pricing policies in order to maintain trade competitiveness. This mechanism has prompted countries such as India and Turkey to consider implementing their own carbon pricing strategies, demonstrating the EU's broader influence on global environmental legislation. These examples illustrate the extraterritorial impact of EU climate regulations beyond its immediate neighbours and reflect the wider trend of legal adaptation to European sustainability norms.

The aim of the study was to explore the possibilities of legal transfer of EU legislation in the field of sustainable development in Uzbekistan. The objectives of the study included analysing how different legal mechanisms contribute to the EU Sustainable Development Goals and affect third countries, with a special focus on Uzbekistan, assessing the gaps and opportunities for the country to meet the EU green economy standards, and developing policy recommendations for effective implementation of the EU green economy rules taking into account the socio-economic and environmental conditions of Uzbekistan.

Materials and methods

The study was based on EU legal acts, international treaties, legal regulations and official reports. Notable among them is the European Green Deal (2019), which describes the EU's strategy to make Europe the first climate-neutral continent by 2050, in particular through actions in the areas of climate change, environment, energy, transport, agriculture, and industry. The Directive of the European Parliament and of the Council No. 2023/2413 (2023), which is an important EU legislative initiative aimed at accelerating the use of renewable energy in Europe, playing a role in achieving the EU's goals of reducing greenhouse gas emissions and moving towards climate neutrality, was also considered, as well as Directive of the European Parliament and of the Council No. 2023/1791 "On Energy Efficiency and Amending Regulation (EU) 2023/955" (2023). The Circular Economy Action Plan for a Cleaner and More Competitive Europe (Communication from the Commission…, 2020) has also been analysed. It is an EU initiative that was adopted under the European Green Deal. It aims to make the EU economy more sustainable by reducing waste, maximising the reuse of materials and minimising negative environmental impacts. The reviewed EU Taxonomy for Sustainable Activities (2024) is a normative classification system developed by the EU that defines which economic activities can be considered sustainable from an environmental perspective. It aims to attract investment in the green economy, increase transparency of companies and set criteria for environmental sustainability.

A key addition to this study was the analysis of German legislation. Germany was chosen as a reference due to its leading role in environmental regulation and sustainability policies. Renewable Energy Sources Act (2000) provides a framework for supporting renewable energy through feed-in tariffs, market premiums, and auctioning mechanisms. The Energy Efficiency Act of Germany (2023) (EnEfG) sets binding targets and incentives for energy conservation, making it a relevant case study for Uzbekistan's transition. Germany's Sustainable Finance Strategy (2021) and its Circular Economy policies serve as models for green investment and waste management reforms.

Some legal and regulatory documents directly related to the legislative framework of Uzbekistan were also considered. The EU-Uzbekistan Agreement (2021) was considered as a significant development in the relations between the EU and Uzbekistan. The EU-Central Asia Platform for Environmental and Water Cooperation is a framework established to address environmental and water issues in Central Asia through regional cooperation. It is part of a wider EU-Central Asia strategy to promote sustainable development, good

governance and regional co-operation. The Platform plays a role in addressing transboundary environmental and water issues, requiring coordination between Central Asian countries and the EU. Reference was also made to the Renewable Energy Sources Act (2000), which was first adopted in 2000 to provide incentives to support and develop renewable energy and its various sources. Also assessed was the EU-Uzbekistan Agreement (2021), which aims to strengthen bilateral relations in various areas, including economy, trade, sustainable development and human rights. The EU-Central Asia Platform for Environment and Water Cooperation (2023) and the Energy Efficiency Act of Germany (2023) were also considered.

Furthermore, Uzbekistan has already taken significant steps towards a green economy, which is crucial for legal transfer and adaptation. The Green Economy Transition Strategy for 2019-2030 was adopted, laying the foundation for further reforms (2019). The Law of the Republic of Uzbekistan No. ZRU-539 "On the Use of Renewable Energy Sources" (2019) created a legal framework for the development of alternative energy, and the Decree of the President of the Republic of Uzbekistan No. PP-436 "On Measures to Improve the Effectiveness of Reforms Aimed at Transitioning the Republic of Uzbekistan to a Green Economy by 2030" (2022) defined specific measures to achieve environmental goals. Uzbekistan's legislative framework includes several key statutes that strengthen environmental governance and climate action. The Law of the Republic of Uzbekistan No. 353-I "On Atmospheric Air Protection" (1996) defines measures to safeguard air quality by preventing pollution and other harmful impacts. The Law of the Republic of Uzbekistan No. 837-XII "On Water and Water Use" (1993) regulates water resource management, ensuring their sustainable use and protection against contamination and depletion. The Law of the Republic of Uzbekistan No. 362-II "On Waste" (2002) focuses on waste management, minimising harmful effects on human health and the environment while promoting the efficient use of waste in economic activities. Additionally, the Law of the Republic of Uzbekistan No. 73-II "On Environmental Expertise" (2000) sets the framework for environmental impact assessments, ensuring that proposed activities comply with ecological standards and do not harm the environment.

Results

The EU's legislative strategy for the green economy is founded on its adherence to the Sustainable Development Goals of the United Nations (UN) and the Paris Agreement. The EU's climate and environmental policy is based on the European Green Deal (2019), which has established goals for resource efficiency and carbon neutrality. A plethora of legal instruments, including directives, rules, and policies, have been devised to address various facets of the green economy. These include the Circular Economy Action Plan for a Cleaner and More Competitive Europe (Communication from the Commission..., 2020), the Directive of the European Parliament and of the Council No. 2023/2413 (2023), the Energy Efficiency Directive (Directive of the European Parliament and of the Council No. 2023/1791, 2023), and the EU Taxonomy for Sustainable Activities (2024). These instruments provide the legislative foundation for the Green Deal. These legislative instruments have a multifaceted impact on third countries, in addition to establishing legally binding objectives and standards for EU member states. As the largest market in the world, the EU may use its economic clout to promote green economy standards outside of its boundaries, making it one of the primary instruments of influence. Businesses operating within or seeking to export to the EU market are obligated to adhere to the association's stringent social and environmental standards, which frequently exceed those prevailing in the countries of origin of the exported goods (Liu *et al.*, 2021; Pagallo, 2022). Consequently, businesses in third-world nations are strongly encouraged to adopt greener procedures and technology to maintain access to the EU market. An analysis of current trends reveals an increasing incorporation of sustainability clauses within bilateral and multilateral trade agreements by EU member states. These clauses stipulate that partner countries must adhere to environmental and social standards as a prerequisite for accessing preferential market access.

For instance, a provision on trade and sustainable development in the EU-Uzbekistan Agreement (2021) promotes collaboration in the green economy, encompassing sectors such as sustainable agriculture, energy efficiency, and renewable energy. Moreover, the EU, through its programmes for technical aid and development cooperation, seeks to encourage third-world nations to transition towards a green economy (Syrov, 2024). It offers resources and knowledge to assist partner nations in capacity building, policy reforms, and sustainable development initiatives. For instance, the EU is assisting the government of Uzbekistan in creating a low-carbon and climate-resilient economy through programs such as the EU-Central Asia Platform for Environment and Water Cooperation – Outcome Document (2023). In line with these objectives, Uzbekistan is implementing measures to stimulate green investment, including the establishment of a system for awarding green certificates, the provision of tax incentives for environmental projects, and the streamlining of processes for investors in sustainable development (Decree of the President of the Republic of Uzbekistan No. PP-4477, 2019). The nation has set ambitious targets to increase the share of renewable energy sources to 25% by 2026 and reduce greenhouse gas emissions by 35% by 2030. The establishment of a specialised working group, comprising members from academia, civil society, the commercial sector, and pertinent government agencies, is of particular relevance to the advancement of these projects.

In order to facilitate the transition to a green economy, the EU has established a robust regulatory framework (Martyniuk, 2024). The Renewable Energy Directive (2009) is a seminal piece of legislation in this area, as it establishes legally enforceable goals for the proportion of renewable energy in the EU's overall energy mix. The Directive aims to ensure that at least 32% of energy is derived from renewables by 2030. Member States of the EU are obliged to devise national renewable energy action plans and to report on their progress towards the targets in accordance with the Renewable Energy Directive (2009). The Directive also contains sub-targets and incentives to encourage the use of renewable energy in the transportation and heating and cooling sectors (Kumar, 2021). Furthermore, the Directive encourages the development of renewable energy and self-consumption communities by empowering citizens and local authorities to participate in the energy transition. The Directive has significant implications for third countries that export renewable energy or raw materials to the EU. To gain access to the EU market, these countries must fulfil the sustainability

criteria set out in the directive and demonstrate that their renewable energy sources meet EU standards.

The EU's legal framework for a green economy also includes the Energy Efficiency Directive (Directive of the European Parliament and of the Council No. 2023/1791, 2023). This directive establishes legally binding energy efficiency targets for the entire EU, with a minimum improvement target of 32.5% by 2030. Member States are obligated to devise national energy efficiency action plans and provide regular reports on their progress towards the targets stipulated in the Directive. Furthermore, the Directive incorporates a range of energy efficiency measures in a variety of industries, including financing energy efficiency projects, energy efficiency labels, and public procurement. The Energy Efficiency Directive has important implications for third countries that export energy-related products or services to the EU. Third countries supplying energy-related products or services to the EU must adhere to the directive's energy efficiency and labelling requirements to enter the market. This creates opportunities for countries such as Uzbekistan to develop their energy efficiency industries and capitalise on the growing demand for energy efficient products and services in the EU market. However, it also requires significant investment in technology modernisation, capacity building and regulatory reforms to meet EU standards.

Notwithstanding its recent inclusion within the EU's regulatory framework for the green economy, the EU Taxonomy for Sustainable Activities (2024) exerts a considerable influence on businesses and investors operating within the EU. The taxonomy provides a classification scheme for sustainable economic activity by establishing precise definitions and standards for identifying green investments. It aims to redirect capital to sustainable projects and prevent green PR by ensuring transparency and uniformity in the labelling of green financial products. The taxonomy also establishes technical verification criteria for each economic activity to determine its compliance with environmental objectives. To be considered a sustainable company under the taxonomy, economic activities in these countries must fulfil the same criteria and standards as in the EU. This presents both challenges and opportunities for countries such as Uzbekistan to align their green economy strategies with EU requirements and tap into the growing pool of sustainable finance.

A comprehensive plan to change the EU economy from a linear model to a closed-loop model that maximises resource efficiency and minimises waste is the Circular Economy Action Plan for a Cleaner and More Competitive Europe (Communication from the Commission..., 2020). The plan establishes objectives to reduce waste and increase the proportion of products that can be recycled and reused. By the year 2030, the EU aims to achieve a recycling rate of 65% for its municipal solid waste and 75% for its packaging waste, as outlined in the Action Plan. In order to encourage sustainable product design, the plan includes a number of measures, including right-to-repair regulations, eco-design requirements, and product info sheets. The action plan also seeks to foster the growth of circular business models like product-as-a-service and sharing platforms, as well as to open up new markets for recycled materials.

Given the need to implement the described regulations, the legal transfer of EU green economy rules to third countries such as Uzbekistan is not a straightforward process. It requires careful consideration of the specific socio-economic conditions, environmental challenges and development priorities of each country, close cooperation and dialogue between the EU and the association partner countries, as well as targeted support and capacity building (Zhang *et al.,* 2022a). As a developing country in Central Asia, Uzbekistan faces a unique set of challenges in adapting to EU green economy standards and taking advantage of the association's legal framework. One of the main challenges for Uzbekistan in complying with the EU green economy rules is the lack of technical expertise and financial resources: implementing sustainable practices and technologies in areas such as renewable energy, energy efficiency and circular economy requires significant investments in infrastructure, research and development, and capacity building.

As of 2023, Uzbekistan's Gross Domestic Product (GDP) was approximately $101.6 billion. The sectoral contributions to the GDP were as follows: Agriculture, Forestry, and Fisheries accounted for 24.3%, Industry contributed 26.1%, Construction made up 6.2%, and Services represented 43.4%. Collectively, the "dirty" sectors – primarily agriculture and industry – contributed approximately 50.4% to the GDP, equating to about $51.2 billion in absolute terms (World Bank Group, 2024).

Implementing stringent climate regulations in resource-dependent countries has led to varied economic outcomes. Nations reliant on natural resources often experience negative long-term growth impacts, necessitating diversification strategies (Börzel & Risse, 2011). Climate policies influence trade by affecting supply chains and market access. For instance, the EU's deforestation regulation restricts imports linked to deforestation, impacting developing countries. Additionally, the EU's CBAM imposes levies on imports from countries without equivalent carbon pricing, affecting the competitiveness of exporters from nations like China, and Turkey (Zhang *et al.*, 2022b).

Adopting EU green economy standards poses challenges for Uzbekistan. Sustainable practices require substantial infrastructure and technology investments, straining resources. Integrating water, energy, and food security policies is crucial for regional sustainability but demands coordinated efforts and significant funding (Saidmamatov *et al.*, 2020). Non-compliance with EU standards could limit market access, particularly for textiles and agriculture. Uzbekistan must also navigate competition from countries better positioned to meet EU green standards. Compliance requires external investment in sustainability, labelling, and environmental management. Balancing green growth with economic demands presents trade-offs, particularly for a resource-dependent economy (Faichuk *et al.*, 2022). The transition has distributional effects, necessitating social protection for vulnerable groups. Resistance from vested interests may further complicate reforms, requiring effective communication and stakeholder engagement.

However, as stated in the Decree of the President of the Republic of Uzbekistan No. UP-60 "The New Uzbekistan Development Strategy For 2022-2026" (2022) and further supported by the Decree of the President of the Republic of Uzbekistan No. PP-436 (2022), Uzbekistan has created a comprehensive plan for making the transition to a green economy. By incorporating green economy concepts into national reforms, this method seeks to increase environmental sustainability, lower greenhouse gas emissions, and achieve

sustainable economic progress. Enhancing energy efficiency through technological modernisation and the creation of financial mechanisms to improve energy efficiency across various sectors are among the main goals of Uzbekistan's green economy strategy. Another goal is to promote renewable energy by raising the proportion of renewable energy sources in electricity generation to 25% by 2030. Another goal is to ensure sustainable resource management through the prudent use of natural resources, such as land and water, incorporating green criteria into state expenditures and investments based on international standards, and creating a system for training staff for a green economy through educational investments and partnerships with international scientific and educational institutions.

Although the objectives of Uzbekistan's strategy are similar to those of the UN Sustainable Development Goals and the European Green Deal, there are some significant variations in terms of targets and scope (Table 1).

Table 1. Comparative analysis of Uzbekistan's green economy strategies, the European Green Deal and the UN Sustainable Development Goals

Aspect	Uzbekistan's Strategy	European Green Deal	UN Sustainable Development Goals
Climate Neutrality	The objective is to reduce greenhouse gas emissions per GDP unit by 35% by 2030 in comparison with 2010 levels	The following goals have been established for the achievement of net-zero greenhouse gas emissions by the year 2050	The 13th Sustainable Development Goal (SDG) calls upon nations to integrate climate change actions into their respective national policies. However, it does not stipulate the establishment of net-zero targets
Energy Efficiency	By 2030, it is anticipated that energy efficiency metrics will have doubled	The strategy emphasises energy efficiency, with particular regulatory measures in a variety of sectors, including buildings, industry, and transportation	By 2030, the objective of SDG 7 is to double the rate of increase in global energy efficiency, whilst ensuring universal access to modern, affordable, reliable and sustainable energy sources
Renewable Energy Targets	The objective is to achieve 15 GW of renewable energy capacity, with more than 30% of electricity deriving from renewable sources by 2030	By 2030, the EU aims to derive a minimum of 32% of its energy from renewable sources	While SDG 7 does not stipulate specific national objectives, it does advocate for a substantial augmentation in the share of renewable energy within the global energy portfolio
Circular Economy	A comprehensive action plan for the circular economy is not yet in place, however, there is a focus on incorporating green standards into public investments and spending	It implements a circular economy action plan that incorporates strategies for resource efficiency, waste minimisation, and sustainable product design	SDG 12 encourages nations to embrace sustainable methods and reduce waste creation to guarantee sustainable patterns of consumption and production
Biodiversity Preservation	While a specific biodiversity policy is not yet in place, environmental sustainability is addressed	It incorporates a biodiversity strategy to preserve and replenish biodiversity and ecosystems	With a focus on terrestrial life, SDG 15 aims to prevent biodiversity loss and preserve, restore, and encourage sustainable use of terrestrial ecosystems

Source: compiled by the author based on M. Ovadek (2020) and Decree of the President of the Republic of Uzbekistan No. PP-436 "On Measures to Improve the Effectiveness of Reforms Aimed at Transitioning the Republic of Uzbekistan to a Green Economy by 2030" (2022)

The alignment of Uzbekistan's green economy strategy with the European Green Deal is of paramount importance for several reasons. Primarily, it is imperative to consider trade and market access issues, given that the European Union is a major trading partner of Uzbekistan (Eckert & Kovalevska, 2021). The harmonisation of environmental standards and practices is likely to facilitate trade relations and assist Uzbek products in meeting the requirements of the EU market. Furthermore, the alignment with EU green policies is likely to attract European investors seeking sustainable and environmentally compliant projects, thereby augmenting foreign direct investment in Uzbekistan. Finally, technological cooperation and the sharing of advanced green technologies and best practices could prove to be a mutually beneficial arrangement, offering Uzbekistan opportunities to access leading-edge green technologies and best practices from EU countries. It is crucial to recognise the substantial environmental advantages that would result from implementing comprehensive circular economy principles and rigorous emission reduction targets. These advantages may be substantial and would aid in worldwide endeavours to alleviate climate change. Furthermore, by aligning with the European Green Deal, Uzbekistan can position itself as a leader in green transformation within the Central Asian region, setting a precedent for neighbouring countries (Jetschke & Murray, 2011).

With laws like the Law of the Republic of Uzbekistan No. ZRU-539 "On the Use of Renewable Energy Sources" (2019) and the Decree of the President of the Republic of Uzbekistan No. PP-156 "On Measures to Implement the Green Energy Certificate System" (2023), Uzbekistan has shown that it is committed to developing its renewable energy sector. These programs encourage the use of renewable energy by introducing certification procedures and establishing fundamental principles. However, Uzbekistan might gain from incorporating particular finance mechanisms and policy tools that have worked well in other situations in order to improve its framework for renewable energy even further. For example, the Renewable Energy Sources Act (2000) of Germany has played a significant role in advancing renewable energy through feed-in tariffs (FiTs). FiTs give renewable energy producers guaranteed payments per kWh for a predetermined time frame, usually 20 years, which secures investments and promotes a notable increase in the number

of renewable energy installations throughout Germany. Uzbekistan should think about adding FiTs to Article 7 of the Law of the Republic of Uzbekistan No. ZRU-539 (2019) in order to improve its renewable energy framework. This would provide renewable energy producers with guaranteed payments per kilowatt-hour over a predetermined time frame. This amendment would promote the growth of renewable energy projects and offer investor protection. Furthermore, a degression mechanism built into Germany's EEG steadily lowers FiTs for new installations over time to reflect declining technological costs and encourage efficiency. In order to promote technological innovation and cost savings in the renewable energy sector, Uzbekistan should integrate a comparable degression mechanism into its FiT structure.

To ensure the preferable integration of power generated from renewable sources into the system, Germany's EEG mandates priority grid access for renewable energy producers. Priority access is not explicitly assured under the Law of the Republic of Uzbekistan No. ZRU-539 (2019). Amending Article 12 of the Law of the Republic of Uzbekistan No. ZRU-539 (2019) to mandate priority grid access and obligate grid operators to purchase electricity from renewable sources would enhance market stability for producers and facilitate the integration of renewable energy into the national grid. Germany has implemented competitive bidding procedures (auctions) for large-scale renewable energy projects to determine tariff levels according to market conditions, leading to a more cost-effective deployment of renewable energy. Comparable competitive bidding processes might be used in Uzbekistan to ensure cost-efficiency and transparency in the allocation of renewable energy initiatives. Germany's EEG provides tax incentives and financial subsidies to promote investments in renewable energy. Article 14 of the Law of the Republic of Uzbekistan No. ZRU-539 (2019) should be augmented to encompass direct subsidies and low-interest loans to further stimulate investment in the renewable energy sector.

The Law of the Republic of Uzbekistan No. 412-I "On the Rational Use of Energy" (1997) provides the framework for advancing energy efficiency in the nation. However, certain aspects of this regulation require improvement to better align with modern international norms and practices, particularly those exemplified by Germany's Energy Efficiency Act (2023). The goal of the current law, as stated in Article 1 of the Law of the Republic of Uzbekistan No. 412-I (1997), is to establish a broad legal foundation for protecting the country's energy resources and ensuring their efficient use. Although this presents a general objective, it lacks specific, quantifiable benchmarks that could drive the implementation of concrete programs. In contrast, EnEfG establishes precise guidelines for enhancing energy efficiency by setting national targets for reducing primary and final energy consumption by 2030, 2040, and 2045. Uzbekistan can adopt this approach by amending its legislation to incorporate specific energy efficiency targets, set clear expectations, and guide policy implementation.

According to Article 9 of the Law of the Republic of Uzbekistan No. 412-I (1997), which outlines the responsibilities of businesses, institutions, and organisations, energy-efficient practices are mandatory, but the installation of energy management systems is not explicitly required. To enhance energy efficiency monitoring and improvement, Germany's EnEfG mandates that specific industries, such as data centres, implement energy or environmental management systems within predetermined deadlines. Uzbekistan can strengthen its regulatory framework by amending Article 9 to require businesses exceeding a specific energy consumption threshold to adopt certified energy or environmental management systems, thereby fostering continuous improvements in energy efficiency. Article 12 of the Law of the Republic of Uzbekistan No. 412-I (1997) promotes rational energy use and provides broad incentives for energy efficiency but lacks specific policies for waste heat utilisation. In contrast, Germany's EnEfG stresses the importance of waste heat utilisation, particularly in data centres, to enhance overall energy efficiency. Implementing policies that encourage or mandate the utilisation of waste heat in industrial operations could significantly enhance Uzbekistan's energy efficiency.

Article 14 of the Law of the Republic of Uzbekistan No. 412-I (1997) addresses control and supervision in the area of rational energy use but does not require routine energy audits. Germany's EnEfG, however, mandates regular energy audits to identify opportunities for energy savings. Introducing a similar requirement in Uzbekistan would facilitate the systematic identification and implementation of energy-saving measures. Although it lacks specific enforcement mechanisms, Article 15 of the Law of the Republic of Uzbekistan No. 412-I (1997) outlines consequences for non-compliance. Germany's EnEfG, by contrast, specifies penalties for non-compliance and imposes explicit obligations on businesses. Strengthening Uzbekistan's regulatory framework by defining enforcement procedures and sanctions for non-compliance would enhance adherence to energy efficiency measures and promote more effective implementation of energy-saving initiatives.

A thorough analysis of existing legislation reveals opportunities for enhancement and alteration to align Uzbekistan's policies with the principles of the circular economy. Uzbekistan can modify its existing legislation to foster a more circular economy by drawing inspiration from the Circular Economy Action Plan for a Cleaner and More Competitive Europe (Communication from the Commission…, 2020) and the German Resource Efficiency Programme (2024), both of which prioritise sustainable practices, waste minimisation, and resource efficiency. The Decree of the President of the Republic of Uzbekistan No. PP-4422 "On Accelerated Measures to Enhance Energy Efficiency in Economic Sectors and the Social Sphere, Implement Energy-Saving Technologies, and Develop Renewable Energy Sources" (2019) primarily addresses the promotion of renewable energy sources and the enhancement of energy efficiency. This decree could be expanded to encompass policies that promote recycling and reuse practices across various industries, as well as the reduction of material consumption, thereby integrating the principles of the circular economy. Incorporating provisions that promote the utilisation of recycled materials in construction and manufacturing may advance the goals of the circular economy. Promoting sustainability can be achieved by establishing design principles that facilitate recycling and disassembly of products.

The Decree of the President of the Republic of Uzbekistan No. PP-54 "On Measures to Improve the Efficiency of State Control in the Sphere of the Use of Fuel and Energy Resources" (2023) attempts to improve governmental supervision of fuel and energy resource use. This decree could be changed to incorporate monitoring and regulation of

material resource utilisation in order to assist circular economy initiatives. This would guarantee that industries implement procedures that optimise resource efficiency and minimise waste. Enforcing reporting requirements on material use and waste creation by businesses would yield important information to support transparency and guide policy decisions. Additionally, the Decree of the President of the Republic of Uzbekistan No. UP-5742 "On Measures for the Efficient Use of Land and Water Resources in Agriculture" (2019) outlines policies for the sustainable management of agricultural land and water resources. Given the significant role of agriculture in Uzbekistan's economy, aligning this decree with circular economy principles is essential. Broadening its focus to encompass strategies for minimising agricultural waste, optimising irrigation efficiency, and advocating sustainable farming practices could further augment resource conservation. Furthermore, implementing practices for organic agriculture and utilising environmentally friendly fertilisers may enhance long-term ecological sustainability. From the results obtained earlier, brief conclusions can be drawn (Table 2).

Table 2. Comparison of Uzbek legislation with EU laws

Aspect	Uzbekistan Legislation	EU Laws	Potential Harmonisation Areas
Renewable Energy Targets	Law of the Republic of Uzbekistan No. ZRU-539 (2019) establishes the legal framework for renewable energy development, promoting solar, wind, and hydro energy but lacks binding targets. Decree of the President of the Republic of Uzbekistan No. PP-156 (2023) introduced a green energy certification system to attract investment in renewable energy projects	Directive of the European Parliament and of the Council No. 2023/2413 (2023) sets binding targets of at least 32% renewable energy by 2030	Setting binding renewable energy targets and incentives for green energy development
Energy Efficiency Measures	Law of the Republic of Uzbekistan No. 412-I (1997) provides general principles for energy conservation but lacks detailed enforcement mechanisms and specific targets. Decree of the President of the Republic of Uzbekistan No. PP-4422 (2019) mandates accelerated measures for energy efficiency in economic sectors, encouraging modernisation of infrastructure	Directive of the European Parliament and of the Council No. 2023/1791 (2023) mandates at least 32.5% energy efficiency improvement by 2030	Introducing enforceable energy efficiency targets and mandatory energy audits
Sustainable Finance	Decree of the President of the Republic of Uzbekistan No. PP-436 (2022) promotes green investment and financial incentives for sustainable projects. Decree of the President of the Republic of Uzbekistan No. PP-4477 (2019) defines the strategy for transitioning Uzbekistan to a green economy, but does not fully align with the EU sustainable finance taxonomy	EU Taxonomy for Sustainable Activities (2024) provides clear criteria for sustainable finance	Aligning green finance initiatives with EU taxonomy standards to attract investments
Circular Economy Framework	Uzbekistan currently lacks a comprehensive circular economy action plan. Some elements are included in Decree of the President of the Republic of Uzbekistan No. PP-4422 (2019), which introduces green criteria for public investments and encourages sustainable industrial practices	Circular Economy Action Plan (2020) mandates waste reduction, sustainable product design, and recycling targets	Developing a comprehensive circular economy strategy with regulatory support
Carbon Emission Reduction	Decree of the President of the Republic of Uzbekistan No. UP-60 (2022) sets goals for reducing greenhouse gas emissions by 35% per unit of GDP from 2010 levels by 2030. Law of the Republic of Uzbekistan No. 412-I (1997) also contains provisions related to energy efficiency but lacks clear enforcement mechanisms	European Green Deal (2019) seeks to achieve net-zero carbon emissions by 2050	Strengthening carbon emission reduction policies with long-term net-zero targets
Air and Water Protection	Law of the Republic of Uzbekistan No. 837-XII (1993) governs sustainable water management and the safeguarding of water resources, although it is deficient in stringent pollution control measures. The Law of the Republic of Uzbekistan No. 353-I (1996) implements emission control measures. Nonetheless, it does not entirely comply with EU air quality criteria	Water Framework Directive (2000) mandates that all EU member states attain a satisfactory water quality condition	Strengthening water management and air quality standards to meet EU environmental benchmarks
Waste Management	Law of the Republic of Uzbekistan No. 362-II (2002) establishes fundamental laws for garbage management and disposal. The Law of the Republic of Uzbekistan No. 73-II (2000) establishes the framework for environmental impact assessments, although it does not impose stringent recycling and waste reduction objectives	Waste Framework Directive (2008) establishes a legislative framework for waste management and the circular economy	Improving waste management policies with stricter recycling and waste reduction targets

Source: compiled by the author

As demonstrated in Table 2, a synopsis of the fundamental elements of Uzbekistan's legal framework in relation to EU environmental and sustainability standards is provided. The table delineates the principal legislative provisions governing renewable energy, energy efficiency, sustainable financing, the circular economy, carbon emissions, market access, environmental protection, biodiversity conservation, and waste management. The comparison presented demonstrates both the progress that has been made and the areas requiring further alignment with EU policies. The integration of EU regulatory ideas and practices could strengthen Uzbekistan's legal environment, fostering sustainability, regulatory transparency, and enhanced access to international markets.

Discussion

The current study pointed out in particular that not just the legislative framework of EU countries, but in particular Germany, could be used as a basis for Uzbekistan. The EU legislative framework and the values of the association in this direction were considered by K.L. Scheppele *et al.* (2020) and V. Ladychenko and A. Mykytiuk (2023). Scholars have noted that the EU is facing a crisis of values as some member states openly violate the EU's basic principles, creating both political and legal problems. Unlike political measures, legal action can better address the dual political and legal nature of the problem. The article also argued in favour of a stronger legal approach, where systemic infringement claims assess and address infringements holistically. Nevertheless, the aforementioned challenges do not imply that the association's legal system cannot subsequently serve as a model for other nations or as a platform for amending their own legislation (Pech, 2022). A study of the legal frameworks for sustainable development in EU nations concluded that utilising the legal framework as a foundation for Uzbekistan is an effective strategy, aligning with the study's conclusions. Uzbekistan's resource-based economy can be compared to the Netherlands, which faced Dutch disease, causing currency appreciation and industrial decline (Barczikay *et al.*, 2020). The Dutch experience underscores the need for economic diversification. Policies like fiscal strategies and exchange rate management help mitigate risks (Bresser-Pereira, 2020; Gu *et al.*, 2023). Uzbekistan could adopt green finance mechanisms and align with climate agreements to counter resource dependence effects.

This study analysed the legislative framework applicable for enacting modifications to the legal and regulatory structure in Uzbekistan. The efficacy of legislative measures was evaluated in the study of L. Montanarella and P. Panagos (2021), specifically within the context of the European Green Agreement. The researchers observed that the European Green Deal serves as a strategy to tackle climate and environmental challenges, with soils being integral to the attainment of Sustainable Development Goals. However, they concluded that insufficient action has been taken to enhance progress towards achieving the primary objectives in this regard. This has resulted in inefficiencies in achieving the Sustainable Development Goals within the European Green Deal. Despite these challenges, it is imperative for the nation to enhance market access opportunities for local enterprises in Europe. The present study observed that the EU's strategies for attaining the Sustainable Development Goals, as well as their overall methodologies, are effective. These strategies can be implemented in several countries, including Uzbekistan, to achieve enhanced outcomes in this regard. However, the challenge of establishing conditions for a qualitative shift and the application of one country's legislative principles in another remains, and this is a very complex process.

L. Rajamani *et al.* (2020) assessed the equity justifications in 168 nationally defined constituents in the 2015 Paris Agreement, comparing them with the principles of international environmental law. While many constituents of the Paris Agreement are consistent with legal principles, such as sustainable development and equity, some rely on unsupported indicators such as small shares of global emissions. The removal of cost and allowance-based approaches that benefit affluent nations has led to more stringent standards for developed countries and more forgiving targets for developing nations (Ostudimov & Kaminska, 2023). If every nation opted for the highest permissible emissions within its equitable allocation, global emissions may attain 63 GtCO2e by 2030, leading to disastrous climate change. Utilising principles like damage avoidance, the Paris Agreement mandates that industrialised nations with significant historical emissions, such the US and Germany, attain net zero emissions by 2030. Considering all these factors, the necessity to expedite efforts on climate change is underscored, which remains pertinent for Uzbekistan, among others.

It is evident that the Republic of Uzbekistan is currently devoid of the necessary legal and regulatory frameworks, a fact that has not been examined within the scope of the present study. Moreover, the implementation of the European Green Agreement may be rendered superfluous at this time due to the absence of another component of the legal framework. However, A. Sikora (2020) has evaluated the financial dimension of the European Green Agreement. The expert observed that significant investments are required to attain climate neutrality and sustainable growth. The European Green Deal Investment Plan, which is designed to facilitate environmental and economic transformation in alignment with the EU's sustainable development objectives, is intricately connected to the European Green Agreement (Krawczyńska *et al.*, 2024). This necessitates the integration of environmental sustainability into the EU financial structure and the alignment of economic growth with climate change initiatives, particularly in the context of post-pandemic recovery efforts. The scholar deems it effective to execute this agreement within the legal and regulatory framework to enhance outcomes for investments in sustainable development. T.A. Börzel and A. Buzogány (2022), in their study, in turn looked at how European investment funds align their actions with sustainability statements, especially within the Sustainable Finance Disclosure Regulation. Overall, the researchers concluded that the boundaries of the Sustainable Finance Disclosure Regulation are too loose, leading to inconsistent practices in sustainability reporting. It calls on European and national policymakers to standardise sustainability knowledge, clarify sustainability risks and improve regulation of fund managers' incentives (Krasivskyy, 2024). In this regard, policymakers need to prioritise sustainability and deepen their knowledge of sustainable finance. It was also recommended that managers' financial incentives should be more closely monitored and regulatory requirements adjusted to ensure that funds are indeed pursuing sustainability goals. Thus, it can be agreed with the findings of the scholars above that the regulations governing sustainable

development finance, among others, are an important component for creating a sufficiently high-quality environment for the achievement of sustainable development goals. In this regard, the consideration is relevant in the longer term, when more investments will come to the local market.

Conclusions

Thus, the legal transfer of EU laws to Uzbekistan in the field of green economy is a qualitative approach to support the country's sustainable development efforts. By utilising the experience of the association, Uzbekistan can accelerate its transition to a greener and more climate-resilient future. However, the success of this process depends on a well-designed and carefully implemented legal harmonisation strategy that considers Uzbekistan's unique challenges and opportunities. The EU has established a comprehensive legal framework through directives such as the Renewable Energy Directive, the Energy Efficiency Directive, the Waste Framework Directive, the Water Framework Directive, the Sustainable Finance Taxonomy, and the Circular Economy Action Plan. These regulations set clear targets, enforceable mechanisms, and financial incentives that drive the green transition across the EU. By contrast, Uzbekistan's legal framework, while incorporating some principles of sustainable development, lacks binding targets, robust enforcement mechanisms, and incentives for investment in green technologies. Uzbekistan's legislation is inferior to EU environmental standards in several key areas. The gaps in Uzbekistan's environmental legislation compared to the EU can be attributed to several factors. Institutional capacity remains a challenge, as Uzbekistan's regulatory institutions lack the technical expertise and financial resources required to enforce and monitor strict environmental policies at the level seen in the EU. Economic constraints also play a significant role, as the transition to a green economy requires substantial investment in renewable energy infrastructure, sustainable finance mechanisms, and compliance measures, which pose financial challenges for Uzbekistan. Policy priorities further contribute to the disparity, as while Uzbekistan recognises the importance of sustainability, immediate economic development and energy security remain higher priorities, leading to a gradual rather than immediate adoption of EU-style green policies. The lack of market incentives is another factor, as unlike the EU, where stringent regulations and market mechanisms drive sustainable business practices, Uzbekistan's private sector lacks strong incentives and regulatory pressure to adopt green technologies.

To address these legislative gaps, Uzbekistan should consider establishing binding renewable energy targets and implementing financial incentives such as feed-in tariffs, green bonds, and subsidies for renewable energy projects. Introducing mandatory energy efficiency audits for large enterprises and requiring the adoption of certified energy management systems would further strengthen regulatory oversight. Developing a national circular economy strategy aligned with the EU model, including regulations on waste reduction, recycling, and sustainable product design, would enhance sustainability efforts. Strengthening carbon emissions reduction policies, including the introduction of emissions trading schemes and stricter industrial pollution controls, would align Uzbekistan's environmental standards with global best practices. Enhancing air and water quality standards with robust monitoring, reporting, and enforcement mechanisms, following EU best practices, would ensure compliance with stricter environmental benchmarks. Seeking technical and financial assistance from the EU and international partners, particularly in the areas of capacity building and infrastructure investment, would provide the necessary support for implementing these reforms.

By implementing these measures, Uzbekistan can align its environmental policies with EU standards, improve regulatory effectiveness, and position itself as a regional leader in sustainable development. This transition will not only enhance Uzbekistan's environmental sustainability but also facilitate deeper economic integration with the EU and access to green investment opportunities.

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Conflict of interest

None.

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Правове перенесення законодавства ЄС до Узбекистану у сфері зеленої економіки

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Анотація. Метою цього дослідження було вивчення особливостей правової адаптації законодавства ЄС до Узбекистану у сфері «зеленої» економіки. Дослідження було сфокусовано на аналізі сумісності чинного законодавства Узбекистану зі стандартами ЄС та визначенні потенційних сфер для гармонізації правової бази. У дослідженні використано методологію порівняльного правового аналізу відповідних директив, регламентів і політик ЄС, а також національних законів і політик Узбекистану, пов'язаних з розвитком зеленої економіки. Було показано, що, хоча Узбекистан досягнув прогресу у приведенні своєї правової бази у відповідність до стандартів ЄС, все ще існують прогалини і проблеми, які потребують вирішення. Дослідження підкреслило важливість адаптації законодавства ЄС до конкретного контексту Узбекистану з урахуванням його соціально-економічних умов, інституційної спроможності та екологічних пріоритетів. Крім того, проаналізовано деякі німецькі нормативні акти і зроблено висновок, що вони, серед іншого, можуть бути використані як основа для створення власної нормативно-правової бази. У дослідженні також визначено ключові сфери, на які варто звернути особливу увагу при перенесенні правових норм, такі як відновлювана енергетика, енергоефективність, стале сільське господарство та «зелене» фінансування. У висновках підкреслюється необхідність цілісного та поступового підходу до правового трансферу, включаючи залучення зацікавлених сторін та впровадження механізмів моніторингу. Дослідження сприятиме кращому розумінню процесів правової гармонізації між ЄС та третіми країнами у сфері зеленої економіки, надаючи інформацію для політиків, юристів-практиків та дослідників

Ключові слова: сталий розвиток; зелений курс; нормативно-правова база; відновлювані джерела енергії; клімат

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Legal analysis of the global space agencies and private companies engaged in space services

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Abstract. The study aimed to analyse international legislation in the space industry and the legislation of the Republic of Kazakhstan, as well as to establish the legal framework for the activities of private entities and international space agencies. For an effective study of the topic, terminological, hermeneutical, comparative, and historical methods were used in the study. The study described the commercialisation of space technologies and space in general, identifying current problems and prospects. In particular, the article studies the issue of knowledge transfer and identifies the key role of international cooperation in this transfer. The main international regulatory framework in the field of space activities was also analysed. The legal basis for the activities of leading international space agencies (National Aeronautics and Space Administration and European Space Agency), private companies (Space Exploration Technologies Corporation and Blue Origin), as well as the space committee of Kazakhstan – Aerospace committee of the Ministry of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan was established. The study identified the guiding principles for the activities of public and private institutions established by international space law (exploration of outer space and use of its objects for peaceful purposes, prohibition of appropriation of celestial bodies, non-discrimination, etc.). The study highlighted the need to ensure international cooperation. This concerns cooperation between the public and private sectors in the implementation of common space goals and objectives to increase the potential of space technologies. The study also emphasises the importance of states' compliance with treaties on outer space activities, as well as their harmonisation with national legal acts

Keywords: 3D orbital launches; international regulatory framework; satellite; celestial bodies; technology commercialisation

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Introduction

Given the rapid development of the space sector, the relevance of the legal analysis of the activities of global space agencies and private companies providing space services remains particularly high. The increased involvement of the private sector, in particular Space Exploration Technologies Corp (SpaceX) and Blue Origin, along with government agencies, has led to significant changes in the exploration and commercialisation of outer space. This process raises important legal issues regarding ownership of outer space, international responsibility, and compliance with existing treaties, including the Outer Space Treaty. Given the growing role of developing countries, such as Kazakhstan, in the global space arena, the study of the legal framework is key to sustainable development and cooperation in the international arena.

C. Wang and J. Wang (2024) conducted an in-depth analysis of the regulatory framework for the commercial use of space resources, addressing the international legal framework and the American legislation. The authors identified weaknesses in China's current legislation and suggested improvements, following the international best practices. In particular, the study identified the need for more comprehensive legislative measures to support China's development in this area. The study focused on stimulating a steady and systematic increase in China's commercial activities in the field of space exploration through improved legislation and international cooperation.

P. Brady and J. Orlinksi (2022) assessed public opinion on the functioning of private space companies. The researchers found that most people are in favour of space exploration and moderate government control over the activities of these companies. In addition, the authors found support for large-scale satellite systems such as SpaceX's Starlink, despite awareness of the risks associated with them. In general, the survey results show that the population has a favourable perception of private space companies and their activities that contribute to the expansion of space exploration.

A. Salykov *et al.* (2024) studied the peculiarities of the space industry of Kazakhstan in the context of the digital economy transformation. The authors outlined the main factors that influence the development of the industry, including the existence of strategic cooperation and technological development. At the same time, the researchers determined that traditional industries generate internal value, while the digital economy generates it through external cooperation between suppliers and consumers. The study argued that the innovative development of Kazakhstan's space sector requires a shift away from a "rental" approach to the formation of international relations of strategic cooperation. In particular, the researchers shared ideas to help develop policies that combine digital economic strategies with space industry development initiatives in Kazakhstan.

N. Ruhaeni *et al.* (2022) analysed how the Outer Space Treaty supports the commercialisation of outer space and its impact on the development of Indonesia's space industry (Treaty on Principles…, 1966). The researchers determined that, despite indirectly permitting commercial activities, the Treaty does not provide for specific regulation of such activities. The authors emphasised that the absence of such regulations requires additional legal development to stimulate the growth of the rapidly developing space industry in Indonesia. The study highlighted the opportunities and challenges of aligning international law with national interests in the space industry in terms of commercial activities.

F. Viterale (2023) conducted a comprehensive systemic analysis of the 21st century space, emphasising the complex structure of interactions and their use. The author identified a transition to a multipolar system with more active intervention by state and non-state actors. The study notes that, despite the key role of government agencies, private companies have a significant impact on space activities. At the same time, the study highlighted the lack of effective international governance in space, despite efforts to create appropriate rules and standards. J.-C. Le Coze (2024) examined the security situation in the relationship between the National Aeronautics and Space Administration (NASA) and SpaceX, highlighting the role of bureaucracy in the space industry. The author examined previous approaches and questioned current practices, based on the findings of H.E. McCurdy (2002, 2013). The study notes that cooperation between the public and private sectors will help improve safety standards by adapting to regulatory changes in space. J.-C. Le Coze (2024) emphasised the need to create flexible bureaucratic mechanisms to guarantee effective security measures in space research.

Although substantial academic research in the field of international space law is present, there is still a gap in a comprehensive legal analysis that includes the activities of government agencies along with private companies. Previous studies analysed the public and private sectors separately. A rather small number of studies deal directly with the legal regulation of these institutions. This study aimed to analyse the international regulatory framework in the field of space activities and to establish the legal basis for the activities of space agencies and private companies in the space industry. The main objectives of this study were:

1) to identify the main international treaties in the field of space activities and analyse their provisions;

2) to study the legal aspects of space technology commercialisation and knowledge transfer, in particular, to identify their challenges and prospects;

3) to analyse the legal regulation of the activities of leading space agencies and private companies in the space sector.

Materials and methods

To study the issue of legal regulation of the activities of global space agencies and private companies in the field of space, primarily used international experience in general. This helped to establish the legal basis for space activities in the international arena and pointed to the importance of compliance with international principles by these institutions, regardless of their country of establishment. In particular, the space experience of a single country, namely Kazakhstan, was used, which was chosen as an example of a country whose space industry is developing rapidly and needs to be studied in a more global context. The terminological method was used to interpret and analyse the regulations, which helped to explore the concepts and content of outer space and the commercialisation of space technologies (space). The use of hermeneutics in the study established the meaning of these definitions and considered them in the context of a broader legal discourse. This was used to study the application of the concepts in international jurisdiction and the jurisdiction of Kazakhstan.

In the course of the study of legal acts, the provisions of the following fundamental documents in the space sphere were analysed: The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (OST) (1966); Convention on International Liability for Damage Caused by Space Objects" (Liability Convention (LC)) (1971); and Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (RA) (1967). In particular, the key space treaties analysed include the Convention on Registration of Objects Launched into Outer Space (RC) (1974) and the Agreement Governing the Activities of States No. 34/68 "On the Moon and Other Celestial Bodies" (MA) (1979). The Article also examines the provisions of the U.S. Commercial Space Launch Competitiveness Act (CSLCA) (2015), which regulates commercial spaceflight.

The National Aeronautics and Space Act of 1958 (NASA Act) (1958) was used to study NASA's activities; while the Convention for the establishment of a European Space Agency (CESA) (1975) was used to study the European Space Agency (ESA). In turn, the cooperation of the leading private space companies SpaceX and Blue Origin with NASA is determined by the Nonreimbursable Space Act agreement between NASA and SpaceX for flight safety coordination with NASA assets (NCAA) (2021) and the Unfunded Space Act Agreement between the National Aeronautics and Space Administration and Blue Origin of 2022 (USAA) (2022), respectively. To study the legislation of Kazakhstan in the field of space, the Law of the Republic of Kazakhstan No. 528-IV "On Space Activity" (2012) was used.

An important place in the study was occupied by the comparative method, which allowed comparing the provisions of regulatory legal acts in the space sector concerning the guiding principles of activity beyond the Earth (peaceful purposes, prohibition of appropriation of space objects, non-discrimination, etc.) The study also used the historical method to analyse the space activities of international space agencies and private companies. In particular, the study analysed Space Stats (n.d.) statistics on orbital launches by China, India, Iran, Japan, the United States, Russia, and North Korea.

Results

International legal regulation of space activities and technology transfer. The fundamental legal acts mentioned in the methodology contain guidelines and principles for the activities of agencies and companies (both governmental and private) in outer space regarding space exploration and exploitation (Zhao, 2018). This statement is supported by the provisions of Articles 2-4 of the OST (1966), which establish that this legal act is the foundation for space law, which guarantees the obligation of states to peacefully explore outer space and the prohibition of appropriation of any celestial bodies. Of particular importance is Article 4 of the OST (1966), which establishes an international ban on the placement of nuclear weapons or weapons that pose a threat to humanity in orbit around the Earth and outer space in general. In addition, this Article prohibits the formation of military units and devices, testing of various weapons systems, as well as military exercises on celestial bodies. However, it is also noted that there is no prohibition on the use of the military in peaceful research and the installation of facilities, again, for the peaceful exploration of the Moon and other celestial bodies.

According to Article 5 of the OST (1966), an astronaut is an envoy of all mankind to near-Earth space. In the event of a hazardous situation, the signatories to the Treaty are obliged to assist these representatives. This Article obliges states to report identified aspects that potentially pose a hazard in space. Whereas Articles 7 and 8 of the OST deal with legal liability for damage in outer space and stipulate those states should be liable for damage caused by their astronauts or space technologies (Article 7 of the OST). Whereas Article 8 of the OST states that the signatory state continues to exercise jurisdiction and control over the object it has launched and the crew on board in outer space.

RA (1967), in turn, builds on the principles set out in Article 5 of OST (1966) and is responsible for ensuring the interaction of international society in emergencies arising from space activities, but contrary to the principles of Article 5, it provides more detailed recommendations for their practical implementation. Thus, Article 1 of the RA establishes the obligation of states that are informed of a dangerous situation that has occurred with the crew of a spacecraft in space to immediately notify the launching authority and the UN Secretary-General. This allows for timely notification to facilitate rescue efforts. Whereas Article 2 of the RA requires that contracting parties immediately search for and rescue the personnel of a spacecraft that has made an emergency or emergency landing on the territory of their state.

The LC (1971) is of great importance for the safe implementation of space activities, as Article 2 of the LC provides that the launching state must fully compensate for damage caused by its space object on the Earth's surface or in the flight of a spacecraft. If the damage is caused directly in outer space, the state should be liable only if such damage was caused by its fault (as provided for in Article 3 of the LC). Thus, these provisions provide for a specific procedure for eliminating losses and imposing liability in the event of space accidents caused by malfunctions of space technologies or humans in space. Article 8 of the LC establishes that if a state suffers damage during space activities from another state and its representatives, such state may file a compensation claim. This claim must be filed no later than one year after the damage was caused or the offending state was identified (as provided for in Article 10 of the LC). If the dispute is not settled amicably within the specified period, a commission on the damage claim is formed (Article 14 of the LC).

Article 2 of the RC (1974) stipulates that all objects launched into space must be registered with government authorities and the international registry maintained by the United Nations (UN) Secretary-General. In particular, Article 4 of the RC defines the list of data on the space object required for registration:

- name of the launching state(s);
- acceptable identification designation of the space object or its registration number;
- data on the place and date of launch or location of the space object;
- orbital parameters, including initial period, inclination, apogee, and perigee;
- main functions of the object. In general, the LC provisions improve the level of transparency regarding the ownership and purpose of the objects that are launched.

The MA (1979) contains important provisions governing space activities on the Moon and other celestial bodies, according to Article 1, the provisions of the Agreement apply

not only to the Moon but also to any other celestial body within the Solar System. Article 3 of the MA states that the Moon shall be used only for peaceful purposes and prohibits any military use of the Moon and the placement of nuclear weapons on it. Article 6 ensures the free conduct of scientific research without any inequality between the signatory states. Article 7 of the MA focuses on the prevention of environmental pollution through preventive measures. Whereas Article 11 of the MA refers to the introduction of an international regime for the rational use of the Moon's resources based on equal access to them by all states. In general, analysing the provisions of the MA articles, it was established that it is a fundamental treaty in the field of space activities. Firstly, this is determined by the fact that these articles contain the principles of peaceful and equitable use of celestial bodies, which guarantee the benefits of space exploration for all states.

Together, these international treaties provide a favourable legal environment for peaceful space exploration, while holding states engaged in commercial activities accountable. They emphasise the principles of not appropriating space objects, but at the same time allowing private companies under the control of states to participate in commercial projects (launching satellites or mining natural resources on celestial bodies (asteroids)). Although these major outer space treaties do not contain specific provisions on technology transfer, they establish guiding principles based on which such transfer should be conducted. This applies to the principle of cooperation, which, in turn, extends to technology transfer and facilitates it, etc. Despite the existence of an extensive legal framework for space activities, there is no comprehensive framework specifically regulating the transfer of space technologies. In the practical implementation of space programmes, states use a variety of tools, including research and development collaborations between state institutions and private companies. This facilitates the exchange of experience and technology but is also consistent with the principles of international law.

Commercialisation of space technologies and knowledge transfer: Legal aspects. Despite an extensive regulatory framework in the space sector, international treaties do not contain a provision defining the concept of commercialisation of space technologies (space). However, they do have certain provisions that help to establish the essence of this phenomenon. Article 1 of the OST (1966) stipulates that any exploration of outer space should be carried out exclusively for the benefit of all states of the world, and not in the interests of a particular state or region. It also establishes the prohibition of discrimination and the importance of ensuring equal access to space research by states (including their public authorities and private enterprises). While Article 6 of the OST states the activities of both governmental and non-governmental organisations. However, at the same time, it contains a provision on the state's obligation to grant permission and further monitor the space activities of such non-governmental institutions (Jagota, 2023).

Thus, the commercialisation of space involves the involvement of the private sector in space research by the state, based on the principle of non-discrimination, free conduct of scientific research, and prevention of the seizure of outer space objects. This, in turn, is implemented using innovative space technology, infrastructure and materials (Space commercialization, n.d.; Moltz, 2019). This involvement was central in the development of space technology and space exploration in general, as it attracted billions of dollars from non-governmental organisations and entrepreneurs (Atkins, 2022).

According to the Space Foundation's 2024 report, over the past 10 years, the average annual share of the European private sector in the space industry has increased by 66% (Space Foundation Editorial Team, 2024). Such commercialisation covers various areas of activity that are an integral part of space activities, including resource extraction (including asteroids), space tourism, development of commercial satellites and their launch, construction of reusable rocket facilities (such as SpaceX), various space exploration activities, etc (Kaneria & Pandey, 2024). Overall, the creation of a stable and profitable space industry that will effectively implement the latest space technologies to support economic development is the main objective of space commercialisation. By reducing costs and making space more accessible, private enterprises can offer services that will be useful in various industrial sectors, such as telecommunications and agriculture (e.g., satellite launches and remote sensing) (Apakhayev *et al.*, 2018; Fedonyuk *et al.*, 2020). In addition, competition stimulates innovation, which helps to improve technological advances that were previously unavailable. Space commercialisation also ensures the long-term preservation of human presence in space (Serikzhanova *et al.*, 2024). This is done by developing the necessary materials and resources for long-distance space missions.

Speaking directly about knowledge transfer, the Organisation for Economic Co-operation and Development (OECD) in its publication established the essence of space technology transfer and commercialisation (TTCs), which includes this concept. Thus, TTCS is the process of transferring experience, skills, professional and technical knowledge, expertise, various techniques, and innovations from one governmental institution (in particular, a space agency) to another. As a result of this transfer, economic development beyond the space industry is ensured and its value is formed. The OECD's identification of ways to transfer knowledge and technology to the space sector was important, including: commercialisation of national intellectual property through patenting or establishment of enterprises; cooperation in research (including involvement of scientists or private entities in state-targeted research); publication of scientific articles, exchange of personnel, organisation and holding of scientific conferences, allocation of resources and equipment, etc. Thus, the OECD has combined knowledge transfer and commercialisation of space technologies and established their inextricable interconnection (Olivari *et al.,* 2021).

The transfer of experience and skills is an important component of space commercialisation and is enshrined at the international level. Notably, part 3 of Article 1 of the OST (1966) establishes the importance and necessity of cooperation in the international community on space exploration (a similar provision on cooperation is contained in Article 3 of the OST). Another example of the importance of transferring knowledge and skills between states (including the private sector) is enshrined in law in Article 10 of the OST. It provides for the authorisation of states to supervise the launch and flight of near-Earth objects launched by other states.

Lastly, the issue of legal aspects related to space commercialisation and knowledge sharing is the need to overcome complex legislative regulation at the national and

international levels. This will help ensure cooperation between government agencies and the private sector. At the same time, it will facilitate successful cooperation and address potential challenges that threaten the protection of intellectual property and liability for infringement.

Legal nature of space technologies and their commercialisation: Challenges and prospects. The UN defines space technologies as developments that enable various space operations, including communication and navigation via satellites, Earth monitoring, and the exploration of outer space beyond Earth orbit using robotics and human participation. The UN also stressed that such technologies are mostly created and implemented by public and private enterprises, as well as space agencies (Space technologies and…, n.d.).

A significant gap in international space legislation is the lack of a definition of space technologies. In general, this gives space law entities the ability to expand the nature and capabilities of these technologies. But, at the same time, it causes legal challenges in the field of intellectual property (IP) law and the problem of potential misappropriation of space objects. First, this is due to the unspecified list of technologies that can be used for space exploration. Since, given the different characteristics and tasks of certain technologies, some can be used for observation or space tourism, while others are created for mining space resources (e.g., asteroids). This, in turn, directly contradicts the provisions of space law, which prohibits the appropriation of any space resources or objects (Article 2 of the OST (1966)). At the same time, this creates a contradiction between technological advances in recent decades and legislation, as it raises a legal issue regarding the ownership of extracted resources or certain discoveries.

The insufficient level of development of national legal norms on patent law governing the use of inventions resulting from space activities remains an urgent problem. Uncertainty in the legislation on the ownership of space technologies negatively affects the involvement of potential private enterprises in the commercialisation of outer space (Abeyratne, 2011). At the same time, the absence of IP provisions in international space legislation causes difficulties in interpreting the extension of the national legal framework to registered space objects outside the Earth's atmosphere. This absence hinders the attraction of large-scale investments in space research and development activities and the latest developments, as investors do not have a reliable legal protection mechanism for innovative developments (Gangmeih & Mishra, 2024).

For the successful cooperation of the public and private sectors in space commercialisation, it is crucial to ensure proper protection of their IP. This is the main prospect for the development of space technologies and their commercialisation, as the presence of a clear legal framework will protect the copyright of inventors and stimulate investment in the space industry. This approach will promote the introduction of the latest technologies and contribute to economic development, as well as help to avoid conflict situations and ensure sustainable development for the entire international community (Inventions in space, n.d., Usulor, 2023).

J. George (2024) identified the transition of space commercialisation to a sustainable operation as an important step for the further development of space commercialisation. J. George argued that the space sector is developing with increasing rates, but significant efforts are needed to make it sustainable. This development is supported by the receipt of USD 433 billion in funding for space programmes, but there is a prospect of increasing this amount to USD 1 trillion over the next 10 years. This will be realised through government assistance in attracting the private sector along with its investments and innovations.

Technologies and their continuous improvements are crucial for space commercialisation, as demonstrated by the large-scale technological progress in the space sector (Barikova, 2023). For example, the use of reusable rockets has drastically reduced the cost of launching them, which has made it more affordable to launch satellites and conduct other space missions (Hall, 2024). Figure 1 shows the data on orbital launches that took place in 2024. Innovations, such as mega-rocket technology, will contribute to future capacity expansion by enabling the use of more payloads at lower costs. Such innovations will allow for an expanded range of services, including satellite construction, communications, and cargo delivery beyond Earth orbit (Khlystov & Markovitz, 2024).

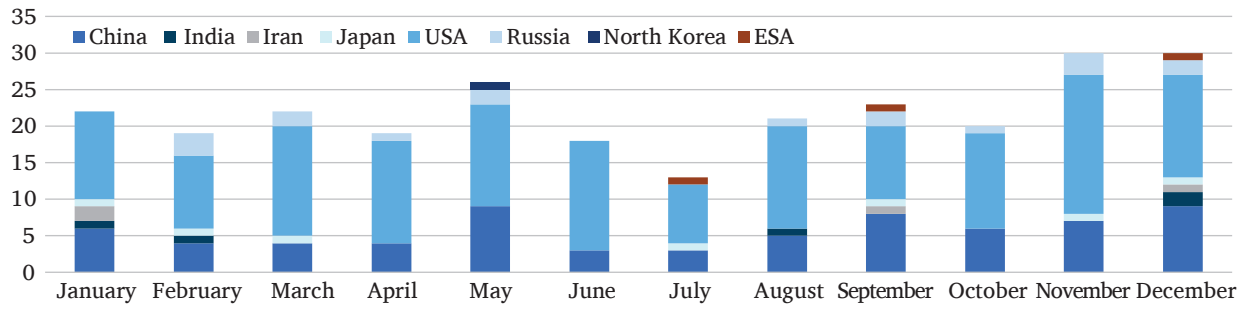

Figure 1. Orbital launches in 2024

Source: compiled by the authors based on Space Stats (n.d.)

Figure 1 shows the orbital rocket launches for the period of 2024, with the participation of China, India, Iran, Japan, the United States, Russia, North Korea, and the European representative ESA (ESA is indicated in the figure because some European countries did not carry out launches, but they were carried out by ESA as a representative of European states). According to Space Stats (n.d.), a total of 263 launches took place, of which 254 achieved their goal and were successful, partial failure occurred in three cases, while total failure occurred in six cases. As can be seen from the figure, the United States made the most orbital launch attempts in 2024, while North Korea made the fewest. At the same time, Figure 2 shows the evolution of orbital launches from 1957 to 2025.

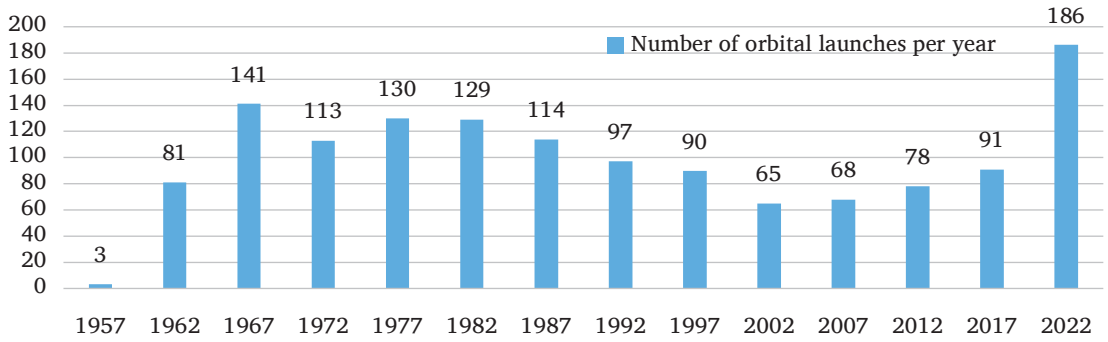

Figure 1. Orbital launches for 1957-2022
Source: compiled by the authors based on Space Stats (n.d.)

Thus, Figure 2 shows the evolution of the growth in the number of orbital launches over 65 years, with the number of launches studied every 5 years from 1957 to 2022. Figure 2 demonstrates that over the period from 1962 to 2017, the total number of launches varied at a relatively constant level without significant ups and downs. In contrast to the surge in activity in 2022, when the number of launches into space reached 186, and compared to the data in Figure 1, which examined orbital launches in 2024 (263 launches), this surge in activity continues (Space Stats, n.d.). In general, successful space commercialisation requires international cooperation, and this is especially true for cooperation between the public and private sectors. In particular, the establishment of a clear legal framework for IP law and the definition of space technologies at the international legislative level is essential to attract new investors in space exploration.

Legal analysis of the activities of World Space Agencies. As a result of the development of space technologies and the changing legal framework, the activities of international space agencies and private entities have undergone significant transformations. There has been an increase in cooperation between government agencies, such as NASA and ESA, and private companies, such as SpaceX and Blue Origin. The regulatory framework governing activities in this area is comprehensive and is determined by international treaties, particularly the OST (1966). At the same time, the development of outer space beyond Earth's orbit is accompanied by challenges arising from liability for incidents and the distribution of rights to use resources (Konert *et al.,* 2022).

Global space agencies, such as NASA and ESA, are central in space exploration, stimulating technological innovation and setting standards for international cooperation. While private companies are tasked with fostering entrepreneurial initiative and increasing the sector's productivity through the development of reusable rockets and lunar missions, which pushes the sector's horizons (Chudyk & Vivchar, 2023). Together, these entities create a cooperative atmosphere that promotes progress in space technology and, by pooling their resources and expertise, accelerates its development.

An important place in space exploration belongs to NASA, which operates on the basis of the NASA Act (1958), in particular, paragraph (c) of Article 101 of the NASA sets out the main goals and objectives to be fulfilled by NASA as a representative of the US space agency, including:

1) improving the quality, practicality, safety, power and efficiency of space and other aircraft;

2) organising comprehensive scientific research into the potential opportunities and challenges arising from space and aeronautical activities for peaceful and scientific purposes, as well as the possible benefits of such activities;

3) deepening public understanding of atmospheric and space phenomena;

4) maintaining the leading global position of the United States in the space and aviation industry, their implementation in peaceful functioning in the atmosphere and beyond;

5) creation and introduction of aircraft that allow transporting equipment, supplies, devices and living organisms into space;

6) adherence to the principle of maximum promotion of the development of scientific and engineering resources of the United States on the basis of cooperation of all involved US agencies to avoid unnecessary duplication of activities, equipment and resources;

7) promoting cooperation between the United States and other states in the conduct of research conducted under this Act and the use of the results of such research for peaceful purposes;

8) informing agencies directly related to national security of scientific discoveries of military importance.

This also includes providing important information to civilian organisations established to manage and regulate non-military space and aviation activities of the NASA Act (1958). Of particular importance for the activities of this Agency was the development and implementation of the Artemis Accords (2020), which formed a set of principles (non-binding) to strengthen the system of regulation of civilian space exploration and exploitation. At the same time, the preamble to the Artemis Accords emphasises the importance of signatory states' compliance with the basic regulatory legal acts in the field of outer space. Thus, the Agreement defines the some important guiding principles in space exploration. Peaceful intentions (set out in Article 3 of the Artemis Accords (2020)) all activities carried out under the Artemis programme must be aimed at achieving peaceful objectives, which is consistent with the requirements of the OST. This principle envisages cooperation between states in the peaceful exploration and development of outer space. The principle of transparency stipulates that signatory states guarantee transparency by making public their strategy and plans related to space activities. This includes the dissemination of scientific data to the public and the international scientific community – Article 4 of the Artemis Accords (2020). The principle of compatibility (Article 5 of the Artemis Accords (2020)) encourages the interaction of different systems used by governments and ensures reliable and effective cooperation based on international standards.

Article 6 of the Artemis Accords (2020) establishes the obligation to provide assistance to astronauts and other personnel in space when necessary, emphasising the importance of mutual assistance in difficult situations. The Register of Objects of Space Activities Launched into Earth Orbit is necessary to ensure safe and sustainable activities in space (Article 7 of the Artemis Accords (2020)). Article 8 of the Artemis Accords (2020) establishes the principle of dissemination of scientific research data, which requires free access to scientific information resulting from missions and access to scientific discoveries made during research related to the Artemis programmes. Protection of historical heritage sites and prevention of space debris (Articles 9 and 12 of the Artemis Accords (2020)). Article 10 of the Artemis Accords (2020) stipulates the importance of the extraction and exploitation of space resources for the safe and rational exploration of outer space. In addition, signatories must inform the UN Secretary-General, society and the scientific community about space resource extraction activities. The principle of prevention of negative impact and due respect, which is enshrined in Article 11 of the Artemis Accords (2020), in turn, helps to avoid conflict situations in outer space.

All principle also applies to the definition of "security zones" that are established between states and can be cancelled after the cessation of relevant activities (Lea, 2025). Taken together, these principles are intended to shape the responsible policy of states engaged in civil space activities. They are also intended to promote the development of international cooperation that is beneficial to all mankind through the dissemination of knowledge about resources and methods of their management that comply with current international standards.

ESA is the European representative of the space agency, which was the result of the signing and implementation of CESA. An important achievement of the agency was the expansion of its powers, as the implementation of operational systems for space use (e.g., telecommunication satellites) was added to the conduct of scientific space research and the launch of conventional rockets (Lindbergh, 2024). The purpose and objectives of ESA's activities are legally enshrined in Article 2 of CESA (1975), as the Agency must guarantee and encourage cooperation between European states in the field of scientific and technical space research. Emphasis is placed on the observance of peaceful purposes in the further use of research data for solving space problems. In particular, Article 2 of CESA (1975) identifies 4 main ways to help achieve these goals: development and implementation of programmes and measures on space activities; development and implementation of an appropriate industrial strategy compatible with its programme, as well as submission of proposals to the signatory states for a consistent industrial policy; formation and implementation of a common European space policy in the long term, through recommendations on space goals and coordination of state policies, addressing the interests of other international and national institutions; coordination of the national programme and space.

Of particular importance is Article 5(1) of the CESA (1975), which defines the mandatory and additional activities of the ESA. Thus, paragraph (a) sets out the activities that must be performed on a mandatory basis: maintaining documentation, conducting exercises and providing relevant education, developing promising projects and conducting technological research; accumulating and exchanging relevant information between the Agency's member states, identifying differences in the programmes developed, and advising on the harmonisation of international activities; establishing a constant dialogue with users to learn about their expectations and needs; formulating scientific programmes or strategies related to space systems and putting them into effect. Point (b) establishes additional ESA activities and allows the Agency to engage in operational programmes following the requirements set by the Council. This includes, inter alia, the provision of satellite launches capabilities or monitoring services, with the consent of users.

Thus, the mandatory activities envisaged in this Article play a key role in stimulating innovation and enhancing European competitiveness through the creation of a sustainable research base. While the optional activities are established mainly to incorporate the potential capabilities and space strategies of different states. Overall, the provisions of this Article provide a framework for balancing the unified objectives of the ESA with different national interests and capabilities, while at the same time contributing to strengthening cooperation between its members.

However, despite the effectiveness of the regulatory framework in the field of space activities, there is significant legal uncertainty regarding the commercial use of space resources. This uncertainty is due to the lack of clear international and national legal provisions governing the commercial use of space resources. First, this is because such use is a new phenomenon, especially concerning the extraction of asteroids and water on the Moon. Thus, due to technological progress and the constant development of commercial space exploration, existing space treaties contain outdated provisions that do not meet current challenges.

The main challenge in the field of space commercialisation is that the fundamental acts prohibit the appropriation of space resources and objects (in particular, Article 2 of the OST (1966)), while there is no clear provision for such appropriation by private institutions. This, in turn, creates a contradiction, since there is no clear indication that this prohibition applies to the private sector, but at the same time, the principle of non-appropriation of space resources and objects is in force. Another problem is that states have different interpretations of treaty provisions on the use of space resources. For instance, Article 1 of the OST allows the use of space resources by all states, while the United States interprets this principle as the possibility of resource extraction, if it is not a national appropriation (this interpretation is unclear and to some extent contradicts the Treaty) (Consonni *et al.,* 2023). A significant gap in the legislation on space activities is the absence of specific provisions regulating liability in case of damage to the natural environment or pollution and waste disposal during space resource extraction by both public and private entities (in particular, following Article 4 of the OST).

To bring space legislation in line with the progress in space activities and to address current challenges and legal uncertainties in this area, it is necessary to clarify the current provisions of the fundamental space treaties that determine the possibilities of commercial use of space resources (Ruhaeni *et al.,* 2022; Wang & Wang, 2024). Among other things, they establish liability for the harmful effects of resource extraction in space on the environment. There is a need to develop a special unified regulatory act that will

fully regulate the use and extraction of space resources by private institutions. It should also include provisions on such aspects of space commercialisation as ownership of space resources, their use and liability for environmental pollution during extraction of such resources. Harmonisation of national legislation on the exploitation of space resources is essential for effective space activities, as it will help to minimise legal uncertainties and enhance cooperation in the international arena.

Legal analysis of the activities of private companies engaged in the provision of space services. Particular attention is devoted to the space activities of private companies, which have several advantages over governmental organisations, the main one being their adaptability to the changing market of space services, thanks to innovation and technological progress. In the case of SpaceX and Blue Origin (which will be discussed further), they have proven to be cost-effective through the effective implementation of reusable rockets. This methodology minimises the cost of launching them, contrary to the standard disposable rockets used by government agencies. Private companies are also actively using venture capital investments to stimulate innovation and expansion into new markets, such as lunar exploration or satellite communications. The transition to privatisation in general contributes to increased productivity and progress in space exploration, as it encourages competition and supports a corporate approach in the space industry (Heitor *et al.,* 2024; Mayrhofer, 2024).

For instance, SpaceX is one of the most ambitious companies that directly designs, manufactures, and launches space technologies beyond Earth orbit. This company was founded in 2002 by E. Musk, with the slogan "to fundamentally change space technology to allow people to settle on other planets" (Momose *et al.,* 2023). SpaceX became the first private company to dock its spacecraft on the ISS in 2012 the development of the Dragon spacecraft and the Falcon 9 rocket launcher helped in this. While Blue Origin was founded in 2000 by J. Bezons and had as its primary goal – sending people into space. The focus of Blue Origin's activities is to put into practice commercial suborbital human space travel, which should contribute to the growth of the space tourism industry (Private companies are…, n.d.). An important achievement of the company was the development of the New Shepard vertical launch rocket (which can reach 100 km in height); after the descent, the rocket returns to Earth, and at the end of the flight, the engines are turned off, so that the spacecraft makes a vertical landing (Sylkina *et al.,* 2015; Pallathadka & Pallathadka, 2022).

The main legal act under which SpaceX and Blue Origin operate is the CSLCA (2015), which regulates commercial spaceflight. Article 103 of the CSLCA, which guarantees compensation for losses to participants in space flights, is of great importance for the activities of these companies. This Article extends insurance obligations and financial liability to participants in such flights until 30 September 2025 and directly applies to these private companies. Thus, the provision establishes a guarantee of liability for SpaceX and Blue Origin at the legislative level and covers the costs of insurance for flight participants (astronauts or tourists) in case of injury or death during a space flight.

Article 104 of the CSLCA (2015) provides for flexibility in the issuance of licences for space launches. This is implemented to ease regulatory pressure and stimulate innovation in the commercial space industry. This Article also allows private companies to obtain permits for experimental suborbital launches. In general, the provisions of Article 104 of the CSLCA help SpaceX and Blue Origin to accelerate the testing of the latest space technologies. It also allows companies to engage in research and development activities without the need to obtain a full licence, which, in turn, significantly simplifies the testing procedure and minimises costs.

Whereas Articles 106 and 107 of the CSLCA (2015) regulate the issues of legal liability and law in general in the field of space commercialisation. Both articles are aimed at creating conditions for a clear and consistent settlement of claims related to this area. Article 106 of the CSLCA establishes exhaustive federal jurisdiction, which provides for legal liability for offences committed during space commercialisation and relies on the competence of federal courts. In turn, Article 107 of the CSLCA deals with the issue of mutual waiver of claims or defences, as well as the determination of liability. This provides for the obligation of the parties (contractors, subcontractors, and consumers) to be liable for damage, whether bodily or property, including death, that occurs during a licensed space flight. Thus, these articles are highly relevant for the effective operation of SpaceX and Blue Origin, as they clearly define legal liability in the event of damage or an offence, establish which courts will potentially hear the dispute, and help to reduce financial risks.

Moreover, the NCAA (2021) regulates the powers and mechanisms for ensuring the safety of SpaceX's Starlink satellites and NASA-protected facilities. The purpose of the Agreement is to prevent collisions and maintain the safe operation of satellites in orbit in the absence of financial exchange between the parties (as provided for in Article 2 of the NCAA). Article 3 of the Agreement sets out the responsibilities of NASA and SpaceX, and their fulfilment is expected to ensure effective cooperation between these organisations, including provide SpaceX with clear and accurate information on assets for human spaceflight, which, in turn, are verified by means of a connection risk assessment analysis (CARA); in the event of an emergency change in satellite movement, it is necessary to provide at least 8 hours for this; provide SpaceX with ISS ephemeris files to develop mission planning and objectives; in the event that NASA needs to conduct an experimental manoeuvre after the mission, the Agency is obliged to contact SpaceX within 24 hours after the mission; share experience and technical developments with SpaceX to develop joint approaches to modernising the conjunction assessment procedure; notify SpaceX as soon as possible of changes in the NASA conjunction assessment system that may affect SpaceX activities; share knowledge on the development of new methods of observation and minimisation of photometric radiation brightness, etc.

The main obligations of SpaceX are to provide ephemeris to the 18th Space Control Squadron (SPCS) and NASA at least three times a day, which will allow for a connection assessment check to prevent approach and collision with NASA facilities; update control status data on the 18 SPCS website and the Space-Track.org as soon as the loss of control of Starlink is reported; conduct orbital flights to avoid approaching the ISS; collaborate on the development of an alternative method of ephemeris delivery to ensure reliability if Space-Track.org is unavailable; notify NASA of changes in the Starlink connection assessment that have a direct impact on NASA; use orbits for Starlink launch that

are not less than 5 km above the ISS apogee or perigee; and provide NASA with the results of a profile analysis of ways to reduce the photometric brightness of the satellite for use in developing recommendations to the Agency. In general, this Agreement aims to form a mutually beneficial foundation for effective cooperation of the NCAA (2021).

A similar agreement was concluded between NASA and Blue Origin USAA (2022) and is intended to ensure the development and testing of key technologies for future space systems. This interaction involves the promotion of commercial space activities by providing Blue Origin with access to NASA resources (in particular, equipment, technical capabilities, and software) (provided for in Article 2 of the USAA). Article 5 of the USAA stipulates that the parties must independently finance their expenses since the implementation of space activities under this Agreement depends on the availability of funds from both parties.

Article 8 of the USAA (2022) is of great importance, outlining the responsibility of the participants and providing for a mutual waiver of claims. Thus, Blue Origin undertakes not to file claims against NASA and its affiliates in the event of bodily injury, death, damage or loss arising from the performance of activities conducted under the agreement, including negligence, but excluding cases of intentional misconduct. Thus, both private companies have a comprehensive legal framework governing their activities in addition to the above-mentioned regulations, the companies are subject to the fundamental space treaties.

Kazakhstan's experience in the space sector: Legal framework and space activities. The main regulatory act in the space industry of Kazakhstan is the Law of the Republic of Kazakhstan No. 528-IV (2012) Article 2 of this Law establishes that the legislative framework of Kazakhstan on space activities consists directly of this Law and the Constitution of Kazakhstan. At the same time, part 2 of Article 2 of the Law of the Republic of Kazakhstan No. 528-IV provides for the hierarchy of ratified international treaties in this area over the Law of the Republic of Kazakhstan No. 528-IV. Article 4 of the Law of the Republic of Kazakhstan No. 528-IV defines the main areas of space activities carried out in Kazakhstan, including: development and implementation of space objects; remote observation of the Earth from space; launching space objects into orbit; scientific exploration of near-Earth space, the solar system and solar-terrestrial interactions; space-time and air navigation services; development and commissioning of satellite communication systems; conducting scientific research and development; ensuring Kazakhstan's cooperation with other states in the peaceful exploration and use of space; promoting the development of the domestic market of commercial space services and their entry into the international market.

Article 5 of the Law of the Republic of Kazakhstan No. 528-IV (2012) contains a list of types of space activities aimed at the formation and use of space infrastructure facilities in the Republic of Kazakhstan (RK). These types of activities include:

1. Conducting research and scientific and technical development.
2. Design and technical development.
3. Manufacturing and testing of experimental, prototype, developmental and commercial spacecraft.
4. Operation, maintenance and modernisation of spacecraft.
5. Operation of space facilities and technical equipment.
6. Supply of space services to end users.

Article 9 of the Law of the Republic of Kazakhstan No. 528-IV (2012), which defines the powers of the competent authority in the space sector, is of great importance. Thus, the competent authority in the field of space activities is responsible for the formation and implementation of the state strategy for space activities. In addition, the authority manages the implementation of projects and programmes, approves decisions on the launch of space objects, and approves the procedure for selecting candidates for the position of astronaut. It also deals with licensing in this area, exercises state control and maintains a register of space objects.

Section 5 of the Law of the Republic of Kazakhstan No. 528-IV (2012), which deals with the issue of safety of space activities, is of particular importance in the Outer Space Treaty. Thus, Article 27 of the Law of the Republic of Kazakhstan No. 528-IV refers to the importance of ensuring the safety of human health and the environment during space activities. Article 29 of the Law of the Republic of Kazakhstan No. 528-IV defines clear prohibitions in the implementation of space industry policy, including: launching into orbit and placing weapons of mass destruction in outer space; conducting space activities that pose a direct threat to human health and life; violate the norms and standards of international law in the field of space pollution; use space assets and celestial bodies to cause environmentally harmful effects; and in the event of a potential threat of harm during certain space activities, it is established that such actions should be limited. In general, this legal act is designed to balance national needs, security, defence and cooperation in the international arena. At the same time, it promotes investment activity and guarantees safety and compliance with environmental standards.

Notably, the role of international treaties in the field of space activities for the legislation of Kazakhstan, as the state ensures the consistency of provisions with international law by implementing them. Part 2 of Article 2 of the Law of the Republic of Kazakhstan No. 528-IV (2012) establishes the hierarchy of international law over the national legislation of the Republic of Kazakhstan, thus, the state establishes that space activities should be carried out following the principles and rules defined by international law. Thus, the said implementation of the provisions can be traced in Article 11 of the Law of the Republic of Kazakhstan No. 528-IV, which establishes the obligation to register space objects, which, in turn, is provided for in Article 8 of the OST (1966), which establishes the jurisdiction of the state and its control over the object launched into space in case of its registration in the relevant state. Moreover, this obligation to register objects launched into space is established in Article 2 of the RC (1974).

To a certain extent, Kazakhstan has implemented the provisions of Articles 2 and 3 of the LC (1971) in Article 27 of the Law of the Republic of Kazakhstan No. 528-IV (2012), which establishes the obligation to prosecute and compensate for damage caused by a space object and space activities in general. While the RA (1967) does not directly appear in Kazakhstan's space legislation, its principles of cooperation and mutual assistance in the rescue of astronauts and the return of space objects are generally consistent with Kazakhstan's obligations in the field of international cooperation in space activities. This is evidenced by Kazakhstan's participation in international treaties and membership in the

UN Committee on the Peaceful Uses of Outer Space. Thus, Kazakhstan's space legislation is based on the implemented principles and provisions of the fundamental international treaties on outer space activities, while ensuring the hierarchy of international law in case of contradictions. Such harmonisation of legislation guarantees effective cooperation and involvement of Kazakhstan in global space activities on the principles of cooperation and responsibility.

The National Space Agency of Kazakhstan (Kazcosmos) is central in ensuring space activities in Kazakhstan, which was established based on a constituent document signed by the President of Kazakhstan in 2005 (officially in 2007). This establishment and further rapid development were facilitated by the events of 2006, which laid a solid foundation for Kazakhstan's space activities with the launch of KazSat-1. The original purpose of Kazcosmos was to unite efforts to implement the policy of the Republic of Kazakhstan and coordinate measures for the development of outer space. This process included the development of the domestic space industry through the establishment of long-term strategic partnerships with international institutions and states (in particular, with Airbus Defence and Space) (Chukalova *et al.,* 2018; Tiberghien, 2024).

Currently, the functions of Kazkosmos are performed by the Aerospace Committee of the Ministry of Digital Development, Innovation and Aerospace Industry of the Republic of Kazakhstan. In its activities, Kazcosmos relies on the regulatory framework governing space activities in Kazakhstan. This applies to legislation in the field of state regulation and control of space activities of the Space Code (Article 9 of the Law of the Republic of Kazakhstan No. 528-IV (2012)), compliance with safety standards and requirements (Section 5 of the Law of the Republic of Kazakhstan No. 528-IV (2012)), and compliance with international treaties (provided for in Article 3 of the Space Code of the Law of the Republic of Kazakhstan No. 528-IV). In addition, the Agency actively develops international cooperation for the effective development of outer space.

The Committee is responsible for implementing several projects, such as the launch of KazSat satellites providing communications services and the launch of KazEOSat for Earth monitoring. Kazcosmos actively cooperates with foreign partners to build space infrastructure, such as the Baikonur Cosmodrome and participates in environmental protection initiatives in partnership with Russia (Bekus & Medeuov, 2022; Antonsen *et al.,* 2023). The agency specialises in training personnel and expanding the scientific potential of Kazakhstan's space industry. The agency also contributes to the state's priorities through strategic partnerships and the reconstruction of existing space infrastructure facilities (Bekus & Medeuov, 2022).

Cazcosmos is central in implementing government policy and managing space projects, including the creation of satellite communications systems and infrastructure development. Due to the favourable location of the Baikonur Cosmodrome, the Republic of Kazakhstan's position in the global space environment is strengthening. At the same time, ongoing legal development is helping to expand the potential of the space industry.

Discussion

In the rapidly developing field of space exploration, the legal framework plays a crucial role in governing the activities of both international agencies and private companies. The international space law framework, which is primarily based on the OST and LC, establishes fundamental principles. In particular, the non-appropriation of outer space by any state and ensuring liability for damage caused by space objects. The national legislation of countries such as Kazakhstan complements this framework and regulates domestic activities in space while following international norms. Based on these principles, agencies such as NASA, ESA, and Kazcosmos operate to ensure compliance with international obligations and national legislation of their respective countries. At the same time, private companies such as SpaceX and Blue Origin are required to overcome the obstacles of the regulatory landscape to provide innovative space services while maintaining compliance with legal norms. As these companies push the boundaries of space exploration, it is increasingly relevant for the sustainable growth of the sector to define their legal obligations.

E.L. Antonsen *et al.* (2023) addressed the improvement of NASA's approaches to assessing and minimising risk factors that affect human health and performance in space missions. The authors revised the concept of risk management to update it to meet the changing priorities of missions, including Mars and Lunar missions. The researchers found that to effectively communicate risks to mission participants, a systematic approach based on tools such as cause-and-effect diagrams is required. The goal of this approach is to ensure that new data obtained as a result of research is incorporated into risk assessments, which will help to make informed decisions to ensure the safety of astronauts.

While the focus of both studies is on ensuring safety through the management of crew health hazards and through compliance with legislation, both differ significantly in scope and methodology (Antonsen *et al.,* 2023). Regardless of these differences, however, both studies emphasise the need for a systemic approach to overcome challenges in the space domain. In general, the study by E.L. Antonsen *et al.* (2023) is consistent with the present study, as it emphasises the importance of developing a structured framework to address the complex challenges of space exploration. This consistency is expressed in the emphasis of both studies on the use of system analysis as a tool for effectively achieving the set goals.

J. Tapio and A. Soucek (2022) examined how ESA influences national legislation in the space sector within the framework of international partnership. Using the example of Finland, the authors examined the peculiarities of interaction between interagency structures and state administrations. In particular, the researchers emphasised that international instruments make national legislation more important, as they strengthen the capacity of the legislative and executive branches of government. The authors noted the role of ESA in stimulating the competitiveness of the space industry in its member states.

Both studies aimed at analysing the regulatory framework in the field of space activities, however, while J. Tapio and A. Soucek (2022) focused on the impact of the ESA concerning national legislation, this study covers a wider range of agencies (NASA, ESA, Kazcosmos) and private companies (SpaceX, Blue Origin). In addition, this study also considers the specifics of Kazakhstan's space legislation. Both studies emphasise that international cooperation is key to the development of space law. The emphasis on how the international legal framework contributes to the development of national

space exploration legislation is also common. This coherence is expressed in the mutual recognition of international law and the influence of its space standards on national legislation.

N. Bekus and Z. Medeuov (2024) analysed the challenges and prospects facing Kazakhstan on the way to developing the space technology sector. The authors highlighted how Kazakhstan navigates its position as a semi-peripheral country in the global space industry. At the same time, the researchers noted that, despite significant successes, Kazakhstan faces problems related to limited resources and international competition. Authors emphasised the importance of establishing strategic partnerships to address these challenges.

Compared to the present study, both share a common interest in defining Kazakhstan's role in the global space environment but differ in that their research focuses more on technological development than on legal regulation. Although both studies define Kazakhstan's strategic position because of its historical relationship with Russia (i.e., the Baikonur Cosmodrome), they approach this issue from different perspectives – technological and legal. The study by N. Bekus and M. Medeuov (2024) is consistent with this study, highlighting challenges that are also relevant when analysing the legal framework of Kazakhstan's space activities. It concerns the recognition of the need for effective technological development to ensure success in the international arena with the help of reliable legal support.

R.J. Lee (2024) analysed the application of international space law to the obligations in the field of rescue and relief for both private and commercial space actors. The author assessed the evolution of space rescue agreements, the challenges faced by private companies such as SpaceX and Blue Origin, and the prospects for the safety of human spaceflight. In general, the author pointed out that there are shortcomings in the legal framework regarding the liability of private actors in emergencies.

Both studies examine the legal framework governing space activities, but they differ in their specific focus. For instance, this study examines broader legal issues covering the activities of several agencies (in particular, NASA, ESA, and Kazcosmos), including the legislation of Kazakhstan. In contrast, the study by R.J. Lee (2024) provides a detailed look at the specifics of emergency rescue operations conducted by private companies. These studies share the common subject of the impact of international law on the activities of private companies, such as SpaceX, but they differ somewhat in their coverage. Moreover, both studies highlight the problem of applying international norms to rapidly developing private space companies. In general, the study by author is consistent with the present study, as it highlights similar issues related to the adaptation of the legal framework to the growing role of private companies in space exploration.

In their turn, D. Maraš and M. Dangubić (2022) studied the development of cooperation between government agencies and private companies in the US space sector. The authors found that such cooperation helped to transform the space industry, as along with government funding and control, the private sector brought innovation and efficiency. The researchers also drew attention to how NASA and other US government agencies are actively engaging with private companies such as SpaceX to achieve common goals in space exploration. This is indicative of a broader trend in which public-private cooperation is becoming increasingly important for the advancement of space technology (Uliutina, 2023).

The two studies, focus on the interaction between state institutions and private companies in the space sector, but this study goes beyond these issues by considering the international legal framework and specific legislation of Kazakhstan. While D. Maraš and M. Dangubić (2022) focused on US-based cooperation, this study offers an analysis of various international relations (including Kazakhstan). Despite the differences, both studies emphasise the importance of public-private cooperation to expand the capabilities of space technologies. In general, the study by D. Maraš and M. Dangubić is similar to this study, as it confirms the key role of cooperation in promoting innovation in the global space industry through the creation of an effective regulatory framework and strategic partnerships.

The results of the study showed that a regulatory framework is necessary to ensure the effective functioning of both international space agencies and private companies engaged in space activities. In addition to the legal framework, international cooperation in the space industry needs to be established, including interaction between the public and private sectors. This cooperation should be based on the principles of openness and mutual benefit to facilitate the exchange of technology and knowledge. It is also important to develop clear safety standards and ethical norms to govern activities in space, including the use of resources and environmental protection. Given the growing commercialisation of space, establishing an effective regulatory system is key to ensuring the sustainable development of the space industry.

Conclusions

The regulatory framework governing space activities is a complex and evolving system that is essential for regulating the activities of global space agencies and private space companies. In general, 5 key international treaties form the basis for space activities. OST is the basis for all other space treaties, providing for the guiding principles of space law (peaceful use of outer space, prohibition of appropriation of outer space objects, non-discrimination). RA regulates issues related to rescue in emergencies and establishes the importance of international cooperation in this regard. LC establishes provisions on the responsibility of states for causing damage to astronauts or space technologies of another state, in particular, provides for appropriate compensation. RC establishes the obligation of states to register their objects launched into space. MA defines space activities on the Moon (in particular, prohibits the deployment of nuclear weapons and military units on the Moon).

The study determined that cooperation between the private and public sectors involved in space activities is becoming increasingly important. Such partnerships increase efficiency and risk sharing, which helps to accelerate technological progress. Such alliances can ensure the availability and cost-effectiveness of space services. In particular, the combination of efforts allows for greater opportunities for space exploration and commercialisation, which benefits both the public and private sectors.

The activities of NASA, ESA and Kazcosmos are governed by the provisions of international space law, following the five main outer space treaties. In their activities, these space agencies and committee are guided by principles that encourage peaceful space exploration and prohibit the militarisation of outer space. In addition, their activities are regulated by national laws and regulations of their respective

countries, while adhering to special strategies and cooperation agreements. In turn, private companies such as SpaceX and Blue Origin are also subject to international space law and control by the regulatory authorities of their respective countries. In particular, the OST provision grants companies the right to conduct business in space, provided that the jurisdiction belongs to their country of origin. Companies are obliged to comply with the requirements of national legislation on the launch and operation of spacecraft. This ensures that commercial activities are consistent with international obligations and do not create obstacles to investment.

Further research could address the activities of space agencies and private entities in other countries, such as the UK, Germany, the Czech Republic, etc.

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Conflict of interest

None.

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Правовий аналіз діяльності світових космічних агентств та приватних компаній, що надають космічні послуги

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Анотація. Метою дослідження було проаналізувати міжнародне законодавство в космічній галузі та законодавство Республіки Казахстан, а також встановити правові засади діяльності приватних суб'єктів та міжнародних космічних агентств. Для ефективного вивчення теми в дослідженні були використані термінологічний, герменевтичний, порівняльний та історичний методи. У дослідженні охарактеризовано комерціалізацію космічних технологій та космосу в цілому, визначено сучасні проблеми та перспективи. Зокрема, досліджено питання трансферу знань та визначено ключову роль міжнародного співробітництва у цьому процесі. Також проаналізовано основну міжнародну нормативно-правову базу у сфері космічної діяльності. Встановлено правові засади діяльності провідних міжнародних космічних агентств (Національного управління з аеронавтики і дослідження космічного простору та Європейського космічного агентства), приватних компаній (Space Exploration Technologies Corporation і Blue Origin), а також космічного комітету Казахстану – Аерокосмічного комітету Міністерства цифрового розвитку, інновацій та аерокосмічної індустрії Республіки Казахстан. У дослідженні визначено керівні принципи діяльності державних і приватних інституцій, встановлені міжнародним космічним правом (дослідження космічного простору та використання його об'єктів у мирних цілях, заборона привласнення небесних тіл, недискримінація та ін.). У дослідженні підкреслено необхідність забезпечення міжнародного співробітництва. Це стосується співпраці між державним і приватним секторами в реалізації спільних космічних цілей і завдань, спрямованих на збільшення потенціалу космічних технологій. Дослідження також підкреслює важливість дотримання державами договорів про космічну діяльність, а також їх гармонізації з національними правовими актами

Ключові слова: орбітальні запуски; міжнародна нормативно-правова база; супутник; небесні тіла; комерціалізація технологій

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Impact of economic crises on obligations in civil law: Analysis of current European social and legal context

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Abstract. The study aimed to analyse the main factors affecting compliance with civil law during the economic crisis. The study was based on an analysis of external factors such as political stability, economic development, social conditions, technological progress, environmental challenges and the effectiveness of the regulatory framework. The study included a content analysis of the regulatory framework of the EU and Ukraine on crisis response; a PESTEL analysis of factors (political, economic, social, technological, environmental and legal) to determine the effectiveness of crisis response; and case studies of European companies Lexbase (Sweden), Walltopia (Bulgaria) and Vedanta (UK), which demonstrated typical violations of labour and environmental legislation in the context of the economic crisis. Based on the analysed experience, the study concluded that although some companies view violations of civil law as a way to remain competitive during economic instability, the long-term results of such a strategy are devastating in terms of reputational damage and the impossibility of sustainable development. A more effective response to economic instability involves macroeconomic measures with a focus on fiscal stimulus, monetary policy and investment in innovation; social measures aimed at expanding social protection for various segments of the population, supporting employment and ensuring access to basic services; legal instruments and measures to strengthen labour rights, anti-crisis regulatory measures and the development of anti-

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corruption policy; integration and international support from EU member states and international partners; and strategic planning for the future, with a priority on the development of digital manufacturing and management decentralisation. The results obtained are of practical importance for the formation of a strategy for sustainable development of Ukraine aimed at minimising the effects of economic shocks and ensuring compliance with civil law even in times of deep crisis

Keywords: business strategies; sustainable development; labour law; environmental law; social equality; digitalisation; decentralisation

Introduction

The economic crisis significantly affected the fulfilment of economic obligations in civil law, which is manifested in delayed performance of obligations, changes in contractual terms and conditions and bankruptcy. During economic crises, there may also be changes to employment contracts that lead to changes in working conditions, staff reductions or the transfer of employees to flexible working arrangements. The importance of these influences is determined by their connection with national development and the quality of life of the population. As of 2025, Ukraine is in a state of economic instability caused by full-scale military aggression, occupation of certain territories and mass migration processes. Ensuring sustainable development of the country is possible only if the impact of the economic crisis on the fulfilment of civil law obligations is minimised. Achieving this goal is possible, among other things, through the analysis and implementation of experience gained from the European social and legal context.

K. Chyzhmar (2023) defined civil law as a legal system that regulates property and non-property relations between legal entities and individuals or other entities. O.O. Kolobylina (2023) emphasised that the principles of civil law defined by the Civil Code of Ukraine include the following: good faith and good intentions, enforcement of obligations, protection of property rights, protection of the right to inviolability of the person, freedom of will, equality of parties to a civil law transaction, compliance with contractual obligations, economic freedom and recognition of legal capacity.

The economic crisis is one of the key obstacles to the fulfilment of obligations in civil law (Adamus, 2023; Alishli *et al.*, 2024). K. Ariyarathne (2023) investigated the relationship between the economic crisis and the enforcement of civil law obligations in the context of Sri Lanka, which in 2022 had a public debt of more than 51 billion USD and 22% of the population was in a state of food insecurity. According to the researcher, the national economic crisis has led to massive layoffs, which were particularly significant in the LGBT community, whose members are subject to discrimination and social exclusion. In addition to social inequality, the economic crisis is exacerbating negative phenomena such as corruption (Kostiushko, 2024). S. Saha and K. Sen (2023) analysed data collected in 130 countries from 1800 to 2020 and concluded that there is a correlation between economic status and corruption, which is moderated by a set of factors. The researchers argued that strong institutions can control corruption in cases of political and civil violence and economic downturns, but their ability to control corruption is significantly reduced in the face of democratic breakdown, coups, armed conflict or currency crises. The results of the study thus indicate that there are safeguards against violations of civil law in times of crisis.

The impact of the economic crisis on the deepening of corruption phenomena was also confirmed by M.V. Korniienko *et al.* (2020) in a study of a sample of 166 countries. The researchers emphasised that corruption, which is a consequence of the economic crisis in a particular country, also determines its long-term development. This conclusion means that countries that can fight corruption in the legal field have a better chance of sustainable economic development than countries that pay insufficient attention or ignore corruption in various areas. According to T.A. Maniou and E. Ketteni (2020), the media can be effective in the fight against corruption, but they are prone to participate in corrupt schemes in times of economic instability. The cited sources highlight the correlation between economic decline and corruption as a manifestation of violations of key civil law norms.

The impact of the economic crisis on compliance with civil law was also studied by M.A. Arco-Castro *et al.* (2024) in an analysis of data from 1,933 companies in 26 countries. Based on regression analysis, the researchers concluded that during an economic crisis, the number of violations of social responsibility norms by companies increases. To minimise the impact of the economic downturn, some companies ignore violations of environmental standards, which are the basis of the principle of good faith and good intentions in the civil law field. Researchers, however, emphasised the existence of conditions under which the risk of violating civil law in the context of the economic crisis is minimal or non-existent.

Although the impact of the economic crisis on the fulfilment of obligations in civil law is a well-researched topic, there are some gaps in terms of adaptation of the experience gained in the context of martial law. The study aimed to analyse compliance with civil law in the context of the economic crisis. The objectives were to study the impact of the economic crisis on the fulfilment of obligations under European civil law and to explore the possibilities for adapting this experience to the Ukrainian context.

Materials and methods

The materials of the European Law Institute to search for cases of the impact of the economic crisis on the fulfilment of obligations in the European social and legal context were used in the study. The following materials were also used for the content analysis: Directive of the European Parliament and of the Council No. 2008/48/EC “On Credit Agreements for Consumers and Repealing Council Directive 87/102/EEC” (2008); Directive of the European Parliament and of the Council No. 2014/17/EU “On Credit Agreements for Consumers Relating to Residential Immovable Property and Amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No. 1093/2010” (2014) and Law of Ukraine No. 504-IX “On Amendments to Certain Legislative Acts of Ukraine Aimed at Ensuring Social and Economic Guarantees in Connection with the Spread of Coronavirus Disease (COVID-19)” (2020).

The study was conducted using a combination of research methods, including PESTEL analysis, which was

aimed at investigating external factors modulating the relationship between economic situation and compliance with civil law. The analysis was based on the idea that the functioning of an economic entity, including in terms of compliance with civil law, is influenced by a set of factors: political, economic, social, technological, environmental and legal (Mahadiansar *et al.*, 2023). One of the objectives of the analysis was to identify the factors that facilitate or, conversely, hinder compliance with civil law in the context of the economic crisis.

The contextual analysis was the basis for the model of the economic crisis presented later in this paper. The proposed model identifies the following elements: the general causes of the economic crisis; the factors that moderate the relationship between the economic crisis and the violation of civil law; and the consequences of the violation of civil law. The model was created to illustrate the importance of the proposed research and to create recommendations for sustainable development in times of crisis. The theoretical model also substantiates the feasibility of recommendations for the implementation of European experience in responding to crises in the Ukrainian civil law context.

In addition to the aforementioned methods, case study analysis was also employed to evaluate the impact of the economic crisis on violations of civil law in the European social and legal context. The study used cases of European companies: Lexbase (Sweden), Walltopia (Bulgaria) and Vedanta (UK). The selection of cases was based on the following inclusion criteria: the companies that violated civil law during the crisis are based in the EU member states; the violation was recorded not earlier than 2008 when the EU and the world experienced the economic crisis; information about the violation of civil law by companies appeared in reliable sources, including industry reports, professional articles, etc. The cases were analysed in terms of the factors that led to the violation of civil law; the socio-economic consequences of these violations; and the companies' strategies to remedy the consequences. The conclusions drawn from the cited cases were considered in the context of their implementation in the work of Ukrainian companies and associations.

Results

Theoretical model of economic crisis and factors of compliance with civil law in a state of economic uncertainty. An economic crisis is a complex phenomenon, the emergence and development of which is influenced by several factors. The dominance of certain factors depends on the specific historical, cultural, social and political context. The emergence and development of crisis phenomena are also influenced by global processes and the reaction of society to them. Despite these differences, it is also possible to identify certain universal causes of economic crises, including the following: systematic mistakes in the management of a business entity, region or country; social tensions leading to revolutions, coups d'état and other situations of instability; ineffective management, including unreasonably risky decisions; and the lack of a sufficient legal framework to regulate key aspects of social activity. The identified factors were outlined in the theoretical model presented in Figure 1.

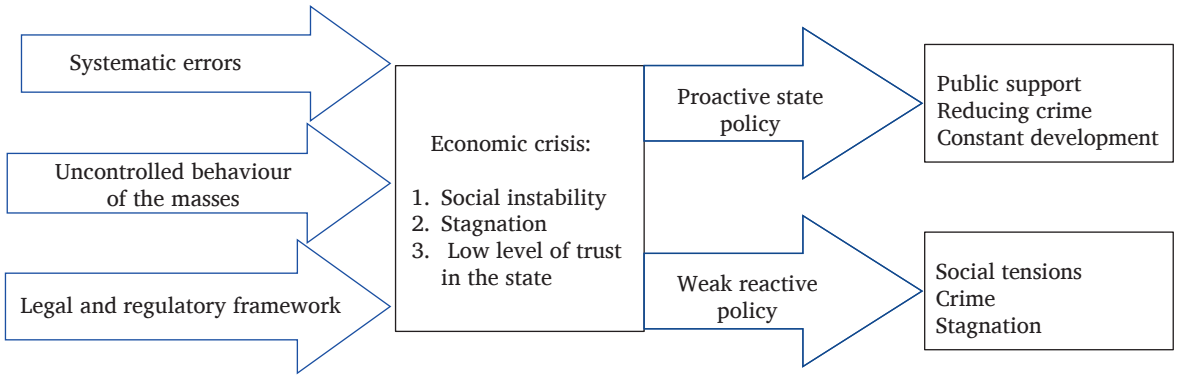

Figure 1. A theoretical model of the economic crisis

Source: compiled by the authors

The model shows that the impact of the economic crisis on the civil law sphere depends significantly on the state's response to the factors that caused the instability. In contrast to a reactive approach, proactive public policy helps to offset the effects of the economic crisis, reduce social tension and ensure sustainable development. Reactive public policy is, among other things, the creation of regulations that reduce the likelihood of violations of civil law in an uncertain environment. An example of such a legal mechanism is the Directive of the European Parliament and of the Council No. 2008/48/EC "On Credit Agreements for Consumers and Repealing Council Directive 87/102/EEC" (2008) and Directive of the European Parliament and of the Council No. 2014/17/EU "On Credit Agreements for Consumers Relating to Residential Immovable Property and Amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No. 1093/2010" (2014). The purpose of the above-mentioned legal initiative is to develop a transparent credit market that would facilitate barrier-free financial and economic activity in the EU. Amidst the economic crisis, an efficient lending system allows businesses to maintain their competitiveness, support sustainable development and guarantee the observance of employees' rights, including the right to safe working conditions and timely payment. The proposed theoretical model also suggests that compliance with civil law in the context of the economic crisis is conditioned by a set of factors, the key ones of which are presented in the Table 1.

Table 1. Factors of compliance with civil law in the context of the economic crisis

Factor	Comment
Political	The stability of the political regime reduces the likelihood of violations of civil law in the economic crisis. Democratic governance regimes create less favourable conditions for violation of civil law than totalitarian ones
Economic	The economic aspect determines the decision to violate civil law in the context of the economic crisis: the probability of deciding to violate the law is higher if the severity of the potential punishment is lower than the potential benefits of violating the law
Social	The probability of a violation of civil law depends on the level of public tolerance for such violations. In some countries, certain offences, such as bribery, are common practice in the conduct of business
Technological	Technological advances may constrain decisions on civil law violations, as the emergence of the cloud, interactive databases, etc. therefore more possible and faster to collect evidence and prosecute violations
Environmental	Environmental disasters increase the instability of society and can be an additional argument in favour of violating civil law. In the context of the economic crisis, some companies see violations of environmental regulations (and, consequently, society's right to a clean environment) as a way to deal with the consequences of the economic crisis
Legal	There is an inverse relationship between the elaboration of the regulatory framework and the risk of violation of civil law in a crisis: gaps in legislation increase this risk, while a detailed regulatory framework reduces it

Source: compiled by the authors based on M. Mahadiansar *et al.* (2023), S. Saha and K. Sen (2023) and M.L. Arco-Castro *et al.* (2024)

The analysis of the Table 1 demonstrates that, depending on the context, each of the aforementioned factors can both increase and minimise the risks of civil law violations during the economic crisis. An illustration of this point is the technological factor, which involves the use of the cloud and other interactive databases to collect and store information for subsequent reporting to stakeholders. Regulations, including the "Treaty on European Union on the Fight against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union", provide for the use of digital technologies to investigate abuse of office and subsequently bring offenders to justice. An example is the initiation of an investigation into the case of former Czech Prime Minister Andrej Babiš, who is suspected of involvement in a USD 2 million fraud (Former Czech PM…, 2022). In this case, the creation of a transparent information environment contributed to the decision of the lower house of the Czech parliament to lift Babiš's immunity and further investigate the case.

In the context of the economic crisis, legal guarantees of the interests of company employees and consumers are important, as set out, in particular, in Directive of the European Parliament and of the Council No. 2008/48/EC "On Credit Agreements for Consumers and Repealing Council Directive 87/102/EEC" (2008), which provides for the protection of consumers from unfair commercial practices, including by providing inaccurate or misleading information about a product or service. The provisions of the above document stipulate that EU member states use universal criteria for the presentation of information, which reduces the risk of manipulation by companies that resort to unfair competition in times of economic instability. The severity of the penalty for violations, such as refusing to inform consumers about the maximum limit of the loan and the terms of its repayment, depends on the legislation of a particular EU country.

The factors that determine the relationship between the economic crisis and the violation of civil law can be used to determine the consequences of such a violation and plan minimisation strategies. The presented theoretical model demonstrates that one of these consequences is the stability of the state during the economic crisis and sustainable development during remission. Previous studies, in particular, R. Mukherjee (2024) and G.R. Bras and M. Robaina (2025), indicate that the existence of state mechanisms for regulating the crisis and bringing to justice for committed offences contributes to the sustainable development of the state, despite economic difficulties. The inability of the state to regulate the crisis causes the exacerbation of deep-rooted problems, such as low levels of trust in the government, and may lead to radical changes in the state form of government. The ability of the state to respond promptly to violations of civil law during an economic crisis may cause stagnation and even collapse.

An important consequence of the state's inability to respond to the crisis in the social and legal field is also the low level of public trust in governance institutions. Based on previous studies, including D. Macdonald (2020) and T. Besley and S. Dray (2024) and, it is possible to argue that in times of economic instability, the level of public trust is based on the actions taken or not taken by public administration. In times of declining demand and production, for example, state guarantees and support for employees who have been forced to be laid off or transferred to part-time work become relevant. Another example is state compensation for lost property or social support for people who have lost their homes as a result of economic turmoil. Supporting the most vulnerable categories of society through the implementation of civil law is a positive signal that increases the overall level of trust in the authorities and consolidates society to fight the consequences of the crisis. The opposite situation is observed when public authorities tolerate violations of certain civil law provisions, seeing their violation as a way to overcome the economic crisis. Examples include the absence of fines for violations of labour laws or the imposition of restrictions on citizens' withdrawals of savings from bank accounts. These and other violations can have long-term consequences in the form of low levels of public trust and support for government initiatives, the expansion of the shadow economy and an increase in the number of offences.

In addition to these consequences, the state's inability to respond to violations of civil law during the economic crisis significantly worsens its image in the international arena. For instance, the state's inability to guarantee decent working conditions makes it unattractive to foreign specialists who could become the driving force behind innovation and sustainable economic development. Another example is the lack of deposit guarantees as one of the factors against investing in certain segments of the economy and their subsequent decline. The above examples prove that the lack of effective functioning of civil law protec-

tion of individuals and legal entities in the economic crisis reduces the authority of the state at both the national and international levels.

The impact of the economic crisis on the fulfilment of obligations in the European social and legal context. The economic crisis is affecting the fulfilment of key obligations in the European social and legal context, as seen in the cases of Lexbase (Sweden), Walltopia (Bulgaria) and Vedanta (UK). The key aspects of the selected cases are presented in Table 2, that shows that well-known European companies that declare that they respect the rights and freedoms of citizens are not immune to violations of civil law, especially in times of crisis and intense competition. Two-thirds of the offences under consideration relate to violations of employees' rights to safe working conditions. In the case of the Bulgarian company Walltopia, the violation of employees' rights to decent working conditions was manifested in the use of a pallet on a telescopic forklift for scheduled work, which is unacceptable from a safety point of view (Lee *et al.*, 2020). An essential detail of the case under analysis is that the recorded violation was not the first and occurred after the company was given a written warning about the inadmissibility of working at height without the use of insurance. Systematic violations of labour law indicate that the company has not made effective changes to control its working practices, has not instructed employees on how to perform work at height safely, and has not provided the necessary equipment to perform such work.

Table 2. Fulfilment of civil law obligations in the context of selected European companies

No.	Company	Case description	Violated civil law provisions
1	Lexbase (Sweden)	The owners of the Lexbase website provided information about individuals' criminal records for free. In 2014, about 300 complaints for defamation were filed against the company that owned the website. The Swedish court was tasked with determining whether the company's activities violated the right to personal data protection or exercised the constitutional right to freedom of information	As Lexbase is protected by the principle of public access, the case was referred to the Chancellor of Justice, who declined to press charges against the company. Following a court ruling published in March 2014, Lexbase resumed its operations
2	Walltopia (Bulgaria)	Walltopia is a well-known Bulgarian manufacturer of climbing walls with operations in various European countries, including the UK. In 2016, the company was fined USD 663,235 for failing to comply with safe conditions when installing an obstacle course	The incident was investigated by the head of the occupational health and safety department, who found that the installations were conducted on a roof area 11 metres above the ground and without the use of any fall protection equipment. The case involved systematic violations of employees' rights, including the right to safe working conditions
3	Vedanta (UK)	The British company Vedanta has subsidiaries in various parts of the world, including Zambia. Employees of the Zambian subsidiary and citizens of the country filed a complaint in a British court, claiming that the operation of a copper mine was worsening their health. As of 2025, the court case is still pending and could be a turning point in ensuring equally high labour standards across the company's branches in different countries	The case study is necessary because violations of labour standards by European companies are not uncommon. Similar violations were found in the case of the Dutch company Ogoni 9. Investigating systematic violations will help to understand compliance with civil law in times of crisis and reduced demand for the company's goods and/or services

Source: compiled by the authors based on K. Lee *et al.* (2020), S. Varvastian and F.K. Kalunga (2020), G.M. Abdel Aziz and A. Abouahmed (2024)

The analysis of this case suggests that the main reason for violations of labour laws is the desire to remain competitive despite the lack of resources. Walltopia's managers attempted to save resources by using cheaper equipment and not monitoring the safe conduct of height operations. The case study also suggests that the company decided to save resources on training employees to comply with universal safe working standards because practices that were not noticed in Bulgaria were publicly reported in the UK. This resulted in a guilty plea and a fine from Walltopia officials. In addition to immediate financial losses, the company also suffered long-term negative financial impacts related to reputational losses. Based on the case study, it is possible to argue that violation of civil law, such as labour law, during an economic crisis, is an unreliable strategy that leads to long-term reputational and related financial losses. The case study also illustrates the idea that in the European social and legal context, there are many deterrents to violations of civil law. One of these tools is public disclosure of violations that motivate individuals and legal entities to comply with the applicable civil law.

The strategy of periodically reviewing labour legislation to adapt it to changes in the labour market, including the emergence of new categories of employees, is also effective. An example is the adoption by the European Parliament of new rules for working on digital platforms (Directive of the European Parliament and of the Council No. 2024/2831, 2024). The Directive, which was voted for by 544 parliamentarians, obliges EU countries to establish a legal presumption of employment at the national level to correct the imbalance of power between the digital work platform and the person working on it. According to the new directive, the burden of proof of an employment relationship is on the platform to prove that there is no such relationship. Adoption of the directive at the national level will reduce the risk of labour exploitation of employees and improve the quality of life of more than 40 million EU citizens working for Uber, Deliveroo and other platforms.

The adoption of the new rules underscores the importance of systematically combating violations of civil law at various levels. Vedanta's case is an example of a violation of not only labour law, but also the right of citizens to a

clean and safe environment, as not only the mine's employees but also residents living near the mine filed a lawsuit in the British court (Varvastian & Kalunga, 2020). Based on the analysis of the case, several conclusions can be drawn regarding the conditions under which the violation of labour and environmental laws became possible. One of the likely reasons is the ongoing economic crisis in most African countries, which pushes employers to exploit the local population by providing unsafe working conditions, lowering wages, exploiting child and adolescent labour, etc. The geographical remoteness of the subsidiaries makes it difficult to detect and investigate such abuses. It is also possible to assume that the operation of subsidiaries in different countries and different political and socio-economic conditions makes it impossible to comply with universal safety and quality standards. Due to the difficulties in communication between divisions, information on violations of civil law is provided with a long delay and often takes the form of a high-profile public case. As in the case of Walltopia, the main method of combating abuses is publicity and prosecution for violations of civil law. Publicity helps to promote the idea that, despite different political, economic, socio-cultural and other realities, individuals and legal entities must comply with universal civil law norms that ensure sustainable development of society.

In contrast to the cases cited above, the Swedish case illustrates the idea that the desire for competitiveness can push companies to make strategic decisions that are ethically ambiguous. On the one hand, the dissemination of potentially sensitive information, such as criminal records, is a violation of the right to privacy of citizens (Abdel Aziz & Abouahmed, 2024). To generate additional revenue, especially in a highly competitive environment, companies often buy telephone databases or transfer their customers' information to third parties without permission. On the other hand, the Lexbase case proves that the line between providing potentially sensitive information and guaranteeing citizens' freedoms, including the right to collect and disseminate information, is rather arbitrary. To define this line, it is often necessary to conduct judicial investigations, which require a lot of time and resources, and create precedents for new violations in the industry.

Strategies for overcoming the effects of the crisis on the fulfilment of obligations in civil law. Based on the experience of certain European countries, it is possible to conclude that prevention or overcoming the consequences of default in civil law due to the economic crisis is a set of measures that can be divided into five key categories. The classification of strategies for overcoming the consequences of the economic crisis in the civil law field of certain European countries is presented in Table 3, that shows that combating the consequences of the economic crisis in the social and legal field is a multi-component strategy, the elements of which are interdependent and in constant contact with each other. A detailed analysis of the identified categories provides an understanding of European strategies to prevent and/or overcome violations of civil law caused by the economic crisis. Some of these strategies, including the guarantee of citizens' rights to safe working conditions, were adapted to Ukrainian realities through the adoption of the Law of Ukraine No. 504-IX "On Amendments to Certain Legislative Acts of Ukraine Aimed at Ensuring Social and Economic Guarantees in Connection with the Spread of Coronavirus Disease (COVID-19)" (2020). The Law provides for a tax rebate to individual entrepreneurs and enterprises for the purchase of disinfectants and medicines, sick leave payments, etc. Despite some progress in protecting the rights of citizens, the implementation of the European experience is hampered by the restrictions of the martial law regime, the unstable financial situation and the lack of resources, as well as the unwillingness of some business entities to compete fairly in an uncertain environment (Cherevko, 2024).

Table 3. Overcoming the consequences of the economic crisis in the European civil law field

Category	Recommended strategies
Macroeconomic measures	1. Fiscal stimulus. 2. Monetary policy. 3. Investing in innovation.
Social events	1. Expanding social activities. 2. Employment support. 3. Ensuring access to basic services.
Legal instruments and measures	1. Strengthening labour rights. 2. Anti-crisis regulatory measures. 3. Anti-corruption policy.
Integration and international support	1. Financial support from EU member states. 2. International cooperation.
Strategic future planning	1. Support of the green economy. 2. Digitalisation of the economy. 3. Decentralisation.

Source: compiled by the authors based on P. Arestis *et al.* (2023), D. Manko *et al.* (2023), J. Harris (2024)

It is possible to argue that macroeconomic measures are one of the main strategies for overcoming the consequences of the economic crisis in the civil law field. Macroeconomic measures include fiscal stimulus, i.e., an increase in public spending on infrastructure, healthcare and education. The effectiveness of the proposed strategy lies in the direct link between economic growth and compliance with civil law. The effectiveness of the proposed strategy has been proved empirically, in particular, in the study by R. Fergusson (2022), who argued that unemployment was associated with increasing rates of antisocial behaviour among young people. There is a statistically significant relationship between fiscal stimulus, social well-being and relatively low levels of civil law violations.

Another recommended macroeconomic measure is an effective monetary policy, which consists of lowering

interest rates implementing quantitative easing programmes and facilitating access to credit. Monetary policy easing becomes especially important during an economic crisis, when household incomes are falling significantly, while financial liabilities remain at the same level or increase. Establishing effective support programmes reduces the risks of tax evasion and other labour law violations. In addition to these strategies, an effective macroeconomic measure is an investment in innovation, including stimulating new technological breakthroughs. Empirical studies, including S. Nagy and M.V. Somosi (2022), and L. Zeynalli *et al.* (2022), confirmed the link between innovation, economic development and social stability. The latter can be seen as a deterrent to violations of civil law.

The second group of strategies is social measures aimed at establishing social stability as a guarantee of compliance with civil law in various areas. Social measures include, first and foremost, support for the most vulnerable groups of the population: the unemployed, the poor, orphans, people with disabilities, etc. Support for vulnerable groups is provided through social payments and free access to education and other opportunities. Social measures also include employment support, which is particularly relevant in times of economic crisis and related mass layoffs. Employment support takes the form of unemployment benefits, as well as retraining and professional development for the unemployed. The creation of an extensive system of training and re-profiling of the unemployed helps to attract workers to the public sector and reduce the risks of shadow schemes and other violations. In the context of the economic crisis, unimpeded access to basic services such as healthcare, education and housing is also of particular importance. Meeting basic needs helps to reduce social tensions and overcome the effects of the economic downturn. Where free healthcare, education and housing are not possible, subsidised support is recommended. Examples of such support include a guarantee of free basic medical care or subsidies for utilities.

Preventing and overcoming the consequences of violations of civil law in the context of the economic crisis is also possible using legal instruments, such as strengthening labour rights, anti-crisis regulatory measures and anti-corruption policy. Strengthening labour rights means protecting the rights of employees regulating working conditions and ensuring the minimum wage (Leitner & Liepert, 2024). During the economic crisis, some companies have sought to increase their efficiency by violating labour laws, such as by employing people informally, taking unpaid leave or increasing the number of working hours without a corresponding increase in wages. Although such violations may bring short-term economic benefits, they cannot cover the reputational damage to the company and ensure its sustainable development.

The legal instruments for regulating the consequences of the economic crisis also include anti-crisis regulatory measures, such as temporary moratoriums on bankruptcies and tax incentives for small businesses. Supporting small businesses is a priority in times of economic crisis, as these businesses are an important driver of the economy and social stability. The importance of such support is evident in the context of Ukraine's small and medium-sized enterprises, which account for 99% of all enterprises in the country, are the key employers and generate at least 20% of all innovations (Miroshnyk & Prokopieva, 2020; Minina, 2023). State support in the form of tax breaks, grants and subsidies allows such enterprises to remain competitive in the crisis without violating the law.

Amid the economic crisis, financial support from the EU is of particular importance, which takes various forms, including the European Stability Mechanism. Established on 27 September 2012, the European Stability Mechanism provides instant access to financial assistance programmes for eurozone member states in financial difficulties, with a maximum lending capacity of 500 billion EUR (Korablin, 2023). An example of the European Stability Mechanism's work is the response to the 2019-2020 coronavirus pandemic: in May 2020, the Union offered EU member states 240 billion EUR in loans, in addition to the 750 billion EUR recovery fund established with the assistance of the European Council in March of that year. Instantaneous assistance helps to minimise the short-term effects of the financial crisis and allows for planning the long-term development of society following accepted civil law. International cooperation, with the International Monetary Fund and the World Bank, is an effective tool for overcoming the economic crisis and the resulting violations of civil law. The advantage of cooperation with these international institutions is that they have universal standards of compliance with civil law and provide their members with resources and tools to comply with these standards.

The strategies analysed above highlight the importance of strategic planning for the future as a key to economic growth, social stability and compliance with civil law. Strategic planning includes actions aimed at developing a green economy, digitalising key activities and decentralising governance. A green economy means investing in environmentally friendly technologies and transitioning to sustainable energy to respect the rights of citizens to a clean environment and efficient use of resources. Digitalisation involves the development of digital infrastructure and support for information technology start-ups that increase the efficiency of enterprises and minimise the effects of the economic crisis. Decentralisation involves the transfer of powers to local authorities to better manage crises. The importance of decentralisation lies in the rational allocation of resources and the choice of strategies to prevent or overcome the consequences of civil law violations that are effective for a particular region.

Discussion

The key conclusion of this paper is the idea of a direct link between the economic crisis and the growing risk of violation of civil law. Confirmation of this thesis was also found in earlier studies by C. Batut *et al.* (2022). These authors examined data from various European companies to understand the effectiveness of five employment reforms that were implemented in the EU in the late 20th and early 21st centuries. According to the researchers, reducing working hours was one of the most common strategies for adapting to economic crises, which, however, did not lead to an increase in employment in the post-crisis period. The study thus proves that anti-crisis strategies that involve violation or restriction of citizens' rights to work are not effective in terms of overcoming the economic crisis and sustainable post-crisis development. Mass dismissals increase social tensions and create preconditions for violations of civil law (Ponomarenko *et al.*, 2014).

The strategy recommended in the study is social guarantees for employees, including safe working conditions and

fair pay. The effectiveness of the proposed strategy has also been confirmed in previous studies, including by P. Arestis *et al.* (2023), who analysed employment data collected in a longitudinal study in 16 European countries. According to the authors, labour reforms that reduced employment protection by reducing firing costs and facilitating the use of temporary contracts did not have the expected positive impact on employment and unemployment. Based on the study cited, it is possible to argue that in times of economic crisis, guarantees of labour rights and freedoms are of particular importance, as they reduce the probability of abuse and violations, and guarantee the sustainable development of enterprises and sectors of the economy in the post-crisis period.

The theoretical model proposed in the study emphasised the importance of supporting citizens to reduce social tensions and minimise the short- and long-term effects of the economic crisis. The significance of socially oriented initiatives was also highlighted in previous studies, in particular, by J. Harris (2024), who analysed the impact of the crisis on the social well-being of the population. After reviewing sources since 2022, author concluded that the economic downturn not only worsens the financial situation of society but also deepens social inequality, which becomes a source of violations in the civil law sphere. L.M. Natter (2025) analysed longitudinal data from 27 European countries and concluded that the global financial crisis of 2008 increased respondents' fears of certain types of crime, which confirms the link between economic instability and violations. Analysing the experience of individual countries, in particular, data collected in 47 Spanish provinces, J. Torres-Tellez and A.M. Soler (2023) conclude that the economic crisis creates preconditions for violations in the civil law sphere that have a long-term impact on the development of society. F. González and M. Prem (2025) highlighted that state support programmes launched during the economic crisis reduce the risks of violations and contribute to the sustainable development of society. Drawing on the experience of Latin America, the researchers proved that in the long run, state social support programmes brought the greatest political dividends in the regions most affected by the crisis. The cited study confirms the effectiveness of the mechanism of social measures to comply with the civil law norms presented in this paper.

The key point of the article was that state support is one of the main preventers of civil rights violations during the economic crisis. The effectiveness of such support was also confirmed by W. Zhang *et al.* (2022), analysed the experience of 199 companies and concluded that government support is a key factor in making important strategic decisions, including compliance with environmental regulations, during economic instability. Similar conclusions were drawn by G. Bang (2024), who analysed the impact of the Inflation Reduction Act of 2022 on the transition of US companies to alternative energy sources and compliance with environmental requirements for doing business. Based on the presented work and previous studies, it is possible to conclude that government initiatives are the main condition for creating a favourable social and legal environment and planning for sustainable development.

In addition to these ideas, the study analysed the importance of digitalisation to support transparent communication between stakeholders and guarantee equal compliance with civil law in times of economic instability. Considering previous studies, the importance of digitalisation was also proved by T. Lynn *et al.* (2022), who emphasised that digital technologies shape the interaction between members of social society. An example is the rapid dissemination of information through interactive platforms, a phenomenon that acts as a safeguard for some companies against violations of labour laws or other civil laws. D. Manko *et al.* (2023) emphasised that public policy aimed at digitalising society is a driving force for changes in the social and legal context for its sustainable development. An example is the creation of digital databases that document the ownership of a particular source of information and significantly reduce the risks of intellectual property infringement. Digitalisation can be viewed as one of the incentives for creating a society whose members are aware of and motivated to comply with key civil law provisions (Llazo *et al.*, 2024).

The analysis of the European context presented in this paper also emphasised the role of local decisions in addressing the challenges of the economic crisis unique to each region. The analysis of the EU legal framework, in particular, Directive of the European Parliament and of the Council No. 2008/48/EC "On Credit Agreements for Consumers and Repealing Council Directive 87/102/EEC" (2008), highlighted the role of decentralisation in responding to the crisis. The idea of the importance of decentralisation in the observance of civil law, especially in times of economic crisis, has been confirmed in previous studies, in particular by K.A. Uddin *et al.* (2024), who investigated the impact of decentralisation on the socio-economic crisis caused by the coronavirus epidemic in Bangladesh. According to the experts, the centralised management system significantly reduced the level of involvement of local authorities in addressing the problems caused by the epidemic, which led to violations of labour laws, selective provision of medical care, etc. Based on their findings, K.A. Uddin *et al.* concluded that the transfer of resources and management tools to local communities facilitates faster decision-making and overcoming the challenges caused by the economic crisis. The rapid resolution of urgent issues is a prerequisite for the sustainable development of society and the observance of key civil law norms. At the level of the EU, the issue of decentralisation was studied by R. McIntyre (2023), who pointed out the tension between the Court of Justice of the EU and the European Commission in the field of competition law, which arose due to differences between the jurisprudence, policy and practice of these institutions. According to the researchers, these differences can be overcome by decentralising, fragmenting and, if necessary, re-centralising these institutions. The transfer of management functions to the local level will not only facilitate more active involvement of local communities but also reduce the risk of violations of civil law. This effect can be explained by the fact that the risks of violations of civil law differ from community to community and therefore require a community-oriented approach. The key ideas of digitalisation, decentralisation, etc. proposed in this paper have been confirmed in previous studies, which proves their relevance.

Conclusions

The study confirmed the close relationship between the financial crisis and violations of civil law, which is particularly noticeable in the context of global economic instability. The main results included the identification of factors that contribute to non-compliance with civil law obligations,

including violations of labour, environmental and social standards. The European experience shows that in times of economic instability, companies and public institutions face challenges that may lead to a decrease in compliance with legal norms due to the desire to reduce costs or maintain competitiveness.

An important aspect of the study was the identification of external factors that modify the relationship between the economic crisis, the state's response and the consequences at the societal level. The study determined that political stability, the effectiveness of institutions, the level of technology development and the social responsibility of businesses are substantial in reducing the probability of disruption. Based on the European experience, ensuring stability and supporting sustainable development in the face of economic uncertainty is not only at the national level but also at the regional level. The results also demonstrate that state support, especially in the form of financial programmes and social guarantees, is a key tool in preventing violations of civil law.

Based on the analysis of European experience, in particular, the functioning of Swedish, Bulgarian and British companies, five groups of strategies for preventing or overcoming the consequences of violations of civil law as a result of the financial crisis were identified. The groups of strategies considered in this paper include the following: macroeconomic measures with a focus on fiscal stimulus, monetary policy and investment in innovation; social measures aimed at expanding social protection of various segments of the population, supporting employment and ensuring access to basic services; legal instruments and measures that include strengthening labour rights, anti-crisis regulatory measures and development of anti-corruption policy; integration and international support from the EU member states and international organisations. Based on the analysed European experience, it is possible to argue that violations of civil law during economic instability may seem to be a logical strategy, but the inherent risks significantly outweigh the possible benefits and do not contribute to sustainable development in the post-crisis period.

Limitations of this study included the focus on the European socio-legal context, which makes it difficult to fully extrapolate the findings to other countries with different political or economic conditions. In addition, the study did not sufficiently analyse the long-term consequences for states that systematically fail to respond to violations of civil law in times of crisis.

Recommendations for future research include expanding the analysis to other regions of the world to identify universal and region-specific patterns of the impact of the economic crisis on compliance with legal norms. It is also advisable to analyse the effectiveness of digitalisation, decentralisation of governance and innovative strategies in ensuring sustainable development in the face of economic instability.

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Conflict of interest

None.

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Вплив економічних криз на зобов'язання в цивільному праві: аналіз сучасного європейського соціального та правового контексту

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Анотація. Метою дослідження було проаналізувати основні фактори, що впливають на дотримання цивільного законодавства в умовах економічної кризи. Дослідження ґрунтувалося на аналізі зовнішніх факторів, таких як політична стабільність, економічний розвиток, соціальні умови, технологічний прогрес, екологічні виклики та ефективність нормативно-правової бази. Дослідження включало контент-аналіз нормативно-правової бази ЄС та України щодо антикризового реагування; PESTEL-аналіз факторів (політичних, економічних, соціальних, технологічних, екологічних та правових) для визначення ефективності антикризового реагування; тематичні дослідження європейських компаній Lexbase (Швеція), Walltopia (Болгарія) та Vedanta (Великобританія), які продемонстрували типові порушення трудового та екологічного законодавства в контексті економічної кризи. На основі проаналізованого досвіду в дослідженні зроблено висновок, що хоча деякі компанії розглядають порушення цивільного законодавства як спосіб зберегти конкурентоспроможність в умовах економічної нестабільності, довгострокові результати такої стратегії є руйнівними з точки зору репутаційної шкоди та неможливості сталого розвитку. Більш ефективна відповідь на економічну нестабільність передбачає макроекономічні заходи з акцентом на фіскальне стимулювання, монетарну політику та інвестиції в інновації; соціальні заходи, спрямовані на розширення соціального захисту різних верств населення, підтримку зайнятості та забезпечення доступу до базових послуг; правові інструменти та заходи щодо посилення трудових прав, антикризові регуляторні заходи та розвиток антикорупційної політики; інтеграцію та міжнародну підтримку з боку країн-членів ЄС та міжнародних партнерів; стратегічне планування на майбутнє з пріоритетом на розвиток цифрового виробництва та децентралізацію управління. Отримані результати мають практичне значення для формування стратегії сталого розвитку України, спрямованої на мінімізацію наслідків економічних шоків та забезпечення дотримання цивільного законодавства навіть в умовах глибокої кризи

Ключові слова: бізнес-стратегії; сталий розвиток; трудове право; екологічне право; соціальна рівність; цифровізація; децентралізація

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Issues of virtual assets legal regulation: Possible social and economic consequences

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Abstract. The issue of legal regulation of virtual assets is highly relevant due to the growing role of virtual assets in the modern economy and financial system and given the challenges arising from their legal uncertainty. The study aimed to substantiate the theoretical and applied foundations for creating a unified conceptual understanding of virtual assets which will ensure their legal certainty. Methods of comparative analysis, synthesis, systematic approach and historical and legal methods were used to study international experience and national legislation. The current approaches to the definition of virtual assets in the international context and Ukrainian legislation, in particular, the Law of Ukraine "On Virtual Assets", were analysed. The study established that the existing definitions contain ambiguities that may lead to legal contradictions. The article examines the arguments of scholars regarding the nature of cryptocurrencies, in particular their intrinsic value, and concludes that the lack of a unified approach complicates the development of an effective regulatory environment. The author analyses possible social and economic consequences, in particular, the impact on investment and financial stability, considering the experience gained. The author proposes a more precise definition of virtual assets as intangible goods that can be an independent object of civil turnover or certify property or non-property rights. The practical value of the work lies in the possibility of using its results by legislators, government agencies, as well

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as academics and practitioners to improve the regulatory framework governing the circulation of virtual assets to ensure the rights of users and attract investment in this area

Keywords: digital assets; legal status of cryptocurrencies; risks of financial transactions; regulation of the virtual market; civil rights; social responsibility

Introduction

As of 2025, the relevance of the topic of legal regulation of virtual assets is growing due to the rapid development of the digital economy and blockchain technologies, which are increasingly integrated into financial and social processes. The growth of cryptocurrency transactions, the development of decentralised finance and the active use of digital tools in business and public administration create new opportunities, but also increase the challenges related to regulation, user rights protection and financial security. Given these changes, the need to develop a clear and effective legal framework is becoming a key factor in creating a transparent and stable environment for the circulation of virtual assets, particularly in the context of market globalisation and growing international requirements for financial transparency.

The popularity of the aforementioned is attributable to the fact that the rapid penetration of virtual assets into the international economic sphere is an innovation in financial activities. Despite the insufficiently regulated issue of defining and classifying virtual assets, which still lacks a unified approach among scholars and practitioners, in the future, amendments to the Law of Ukraine "On Virtual Assets" (2022), accounting for the classification of Regulation of the European Parliament and the Council No. 2023/1114 (2023) (hereinafter referred to as MiCA) adopted in 2023, will contribute to a unified conceptual understanding of virtual assets and ensure their legal certainty. The MiCA establishes common rules for the EU crypto asset market, which provide for investor protection, financial stability and the fight against illegal activities. At the same time, scholars emphasise the need for further adaptation of legal norms to the rapid changes in the cryptocurrency sphere (Matytsin & Inshakova, 2024).

The development of blockchain technologies, the growth of cryptocurrency transactions and the introduction of digital financial instruments into international circulation create not only new opportunities but also significant challenges for regulators. The absence of a legal framework complicates the integration of cryptocurrencies into financial systems, increases the risks of financial instability, and raises the threat of digital assets being used in illegal activities (Kobylnik & Yefremova, 2024).

Studies of the impact of cryptocurrencies on the economic security of the state demonstrate ambiguity in assessments. For instance, O.A. Babych (2024) analysed the significance of the launch of the Bitcoin ETF for the cryptocurrency market, noting that it can help increase investor confidence and create a more stable market. At the same time, A. Mirza (2024) explores the macroeconomic factors affecting the cryptocurrency market, emphasising its dependence on the general economic environment and central bank policies. Another important aspect is the legal nature of virtual assets. O. Yefimov (2022) analysed cryptocurrencies as objects of civil rights and analysed the risks of using them as a means of payment. In turn, the study by N. Atamanova (2024) analysed the specifics of legal regulation of the virtual space, particularly the possibility of integrating cryptoassets into traditional financial systems. At the international level, different approaches to the classification and taxation of cryptoassets are considered. The study by V. Tsiura *et al.* (2024) shows that effective regulation of digital assets can contribute to economic development and financial stability. At the same time, an analysis of EU and US legislation shows significant differences in approaches to the taxation of cryptocurrency transactions (Inshakova *et al.*, 2024).

Given the above studies, the legal regulation of virtual assets in the modern financial space is becoming increasingly relevant. Determining the optimal regulatory model requires an interdisciplinary approach that combines economic, legal and technological aspects. In this context, further research into the legal mechanisms for regulating virtual assets remains relevant, particularly in Ukraine, where the legal framework has not yet been fully adapted to international standards. The study aimed to substantiate the theoretical and applied foundations for the scientific development of a unified conceptual understanding of virtual assets to ensure their legal certainty.

Materials and methods

The study was based on a comprehensive analysis of scientific publications and legislative acts related to the legal regulation of virtual assets. The main task was to identify key approaches to regulating this area in the international and national contexts. To achieve this goal, a set of methods and a systematic approach were applied. First, international standards were studied, the Financial Action Task Force (FATF, 2019), the European Central Bank Crypto-Assets Task Force (2019) and MiCA (2023). The FATF (2019) is not an EU document, but it has an impact on European legislation. These guidelines regulate the fight against money laundering and terrorist financing, including provisions on cryptoassets. It is important to assess their integration into EU legislation for legal harmonisation. The European Central Bank Crypto-Assets Task Force (2019) provides guidance to regulators on the impact of cryptoassets on financial stability. Analysis of this document will help assess the risks and benefits for the economy. The MiCA Regulation (2023) provides a legal framework for the harmonisation of cryptoassets regulation, which can be used as a benchmark for improving Ukrainian legislation in the field of virtual assets. It allows for analysis of the risks and benefits of a unified approach to regulation, which is relevant for creating a transparent market in Ukraine. The national legislation of Ukraine, represented by the Law of Ukraine "On Virtual Assets" (2022), was examined for compliance with international standards and internal consistency of definitions. The study is also based on the analysis of two draft laws of Ukraine on the regulation of the circulation of virtual assets: Draft Law of Ukraine No. 10225 (2023) proposed by the National Securities and Stock Market Commission and alternative Draft Law of Ukraine No. 10225-1 (2023) developed by the Ministry of Digital Transformation, to determine their impact on the

taxation of crypto investments and the legislative regulation of the status of virtual assets.

To describe the scientific debate on this issue, a review of publications on the research topic was conducted. Studies on the nature of cryptocurrencies, their value and socio-economic consequences were analysed. The regression theory of L. von Mises (1981), the theoretical developments of F. Hayek (1990), and the classification of virtual assets proposed by A. Kud (2021), which incorporates their technological, economic and legal, and information and applied nature were addressed. The application of the comparative method identified differences in approaches to the legal regulation of virtual assets. The systematic approach facilitated the integration of the data obtained, which made it possible to develop practical recommendations for improving the regulatory framework of Ukraine. The results helped to identify the main areas for improving the transparency and efficiency of regulatory mechanisms in this area.

Results and discussion

Legal nature and value of cryptocurrencies. In October 2018, the Financial Action Task Force on Money Laundering (FATF), an independent intergovernmental organisation that develops and promotes its principles to protect the global financial system from the threats of money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction, proposed the following definition: "A virtual asset is a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes" (FATF, 2019). This definition was duplicated in the Law of Ukraine No. 361-IX "On the Prevention and Counteraction to Legalisation (Laundering) of Proceeds from Crime, Financing of Terrorism, and Financing of the Proliferation of Weapons of Mass Destruction: Law of Ukraine" (2019). Law of Ukraine No. 2074-IX "On Virtual Assets" (2022) contains a different definition: "A virtual asset is an intangible good that is an object of civil rights, has a value and is expressed as a set of data in electronic form". This definition suggests that, in formulating it, the Ukrainian legislator adhered to the view that each virtual asset has a so-called intrinsic value. However, the opposite view is very common. Several scholars and practitioners deny that cryptocurrencies, a type of virtual asset, have an intrinsic value. Thus, Ukrainian scientist O. Sharov (2018), describing why cryptocurrency is not a measure of value, notes: "cryptocurrencies have no value: neither intrinsic (such as metal money) nor relative depending on the total value of goods in circulation". Several other researchers also point to the lack of intrinsic value in cryptocurrencies (Sapachuk, 2019; Mulska & Gudzovata, 2021).

The American researcher D. Golumbia (2016), noting the words of J.K. Helbreit that money distinguish three types of currency, noted that bitcoin has something in common with only one of them, namely with fiat currency, where the common feature is the absence of intrinsic value (Golumbia, 2016). In this case, the researcher referred to the opinion of the American law professor J. Shreder that Bitcoin "can be considered a fiat currency because it also has no underlying asset". The position of V. Kostakis and C. Giotitsas (2014) on the value of Bitcoin: "Like all objects that have been used as money from time to time, from gold and cigarettes to the dollar and the euro, bitcoin is valuable as long as people are willing to use it. However, bitcoin itself has no real value... bitcoin itself has absolutely zero value. It is intangible and represents hours and energy (in fact, a lot of it) spent by one or more computers" (Kostakis & Giotitsas, 2014). In the same spirit, V. Kostakis & C. Giotitsas (2014): "...Bitcoin has absolutely zero value in itself. It is intangible and represents hours and power (actually a lot of it) spent by one or more computers".

In this context, the position of the American professor P.D. DeVries (2016) is of interest. On the one hand, this scholar highlighted that bitcoin has no intrinsic value, but on the other hand, the author expressed the opinion that: "one of the greatest possibilities of bitcoin is that it can also function as a kind of commodity, similar to gold". Expanding on this idea, the author suggested that "cryptocurrencies seem to have started to mimic the characteristics of gold" and that Bitcoin may increasingly attract investors. In this regard, it should be noted that the comparison of bitcoin to gold is quite common. This is facilitated by one of the provisions of S. Nakamoto (2009). This refers to the comparison of the increase in the number of virtual coins created within the framework of the electronic transaction system proposed in this article with the extraction of gold to service the sphere of circulation.

However, the reasoning given by Polish scientist A. Sieroń (2013) that "gold is a better candidate for the role of a universal medium of exchange in a free market" than bitcoin is quite substantial. According to scientists, as gold as a medium of exchange has a much longer history (spanning thousands of years), people are inclined to turn to gold, whose ability to be a universal medium of exchange has already been proven. Gold has a more understandable nature, which will reinforce the above trend: for most people, handling gold may be easier, and this is especially true when it comes to storage security, as it is easier to buy a safe than to secure a virtual wallet. The gold market is much larger. There is a so-called network effect, which means that the more people use a given currency, the greater the benefits associated with it. In addition, a larger market promotes greater stability. For instance, during the extraordinary sell-off in the gold market on 15 April 2013, the price of bullion fell by 9% in one day, while the price of bitcoin fell by 80% on 10-12 April 2013. Gold is a better hedge against inflation because its supply cannot be arbitrarily increased. However, the supply of bitcoins is also limited by the mining algorithm. However, although this makes bitcoin inflation impossible from a certain point on, inflation of the virtual currency is possible. After all, other similar currencies appeared shortly after the creation of Bitcoin. The use of bitcoins depends on the use of appropriate technology, but not everyone in the world has access to computers, the Internet and smartphones. In addition, the possibility of dramatic changes in technology due to the emergence of new computers, as well as the risk of limited access to the Internet in circumstances such as natural disasters, wars or infrastructure failures, should be considered. Virtual currency is easier to discredit by pointing to the possibility of money laundering or the relative ease of acquiring goods that are prohibited or restricted. Bitcoin is a private fiat currency, it has no use value, which means that in the event of a massive loss of confidence in this medium of exchange, its owners would be left with virtually nothing, while gold is still widely used in jewellery and industry, which means that if it loses its function as a medium of exchange, its value would not fall to zero.

However, there are opponents to the interpretation of Bitcoin as private fiat money. Therefore, A. Sieroń (2013) focused on two of their arguments: 1) the assertion that the concept of "fiat private money" is contradictory, since fiat money is money whose value is the result of a legally established monopoly on its use as legal tender; 2) the position that bitcoins cannot be fiat money, since according to the theory of regression by L. von Mises (1981), for something to function as a medium of exchange, it must first be a commodity. The first argument of A. Sieroń (2013) rejected the first argument by referring to the following: the essence of fiat money is that it is not a commodity, not the status of legal tender. Regarding the second argument, the author noted that L. von Mises' (1981) regression theorem refers to the world of barter, while bitcoin appeared in the monetary economy.

The lack of intrinsic value in Bitcoin was highlighted by Nobel Prize winners in economics. J. Tirole (2017) noted that "Bitcoin is a bubble, an asset with no intrinsic value, and its price will fall to zero if trust disappears". R. Shiller (2014) noted that Bitcoin "has no value at all unless there is a consensus that it has value. Other things, such as gold, would have at least some values even if people did not see them as an investment". Other Nobel Prize winners in economics have made statements that can be regarded as denying the existence of intrinsic value in cryptocurrencies. For example, in 2017, P. Krugman, when asked by a journalist about cryptocurrencies, replied: "Any cryptocurrencies are bubbles. And they are very unstable" (Samaeva, 2017); Y. Stiglits characterised bitcoin as a bubble and noted that "the value of bitcoin today is an expectation of what bitcoin will be like tomorrow" (May 2017); R. Taler stated: "The market that looks most like a bubble to me is the market for bitcoin and its sisters" (Fadilpasic, 2018).

In May 2021, the media reported that Bank of England Governor A.J. Bailey, at a press conference when asked about the future of cryptocurrencies, said: "They have no intrinsic value. That doesn't mean that people don't value them, because they may have an external value. But they have no intrinsic value" (Browne, 2021). At the same time, the American investor B. Miller, who considers investing in bitcoins to be one of the safest options in the financial world, nevertheless drew traders' attention to the fact that bitcoin has no intrinsic value (Kolisnyk, 2022). C.J. Daimon, chairman and CEO of JPMorgan Investment Bank, also pointed to the absence of the latter (Locke, 2021), although this bank was the first of the largest US investment banks to provide clients with access to cryptocurrency funds (JPMorgan launched its own Bitcoin..., 2021).

The notion that not all virtual assets are valuable is also reflected in some definitions of cryptoassets. These include, for instance, the definition adopted by the Financial Stability Board (2018): "Cryptoasset: a type of private asset that depends primarily on cryptography and a distributed ledger (a distributed ledger is a database distributed among multiple network nodes, each of which receives data from the other nodes and stores a full copy of the ledger or similar technology as part of its perceived or inherent (intrinsic) value". However, the concepts of intrinsic and perceived value can be interpreted in different ways. This raises doubts as to whether they should be used simultaneously in the definition of a virtual asset.

As of 2025, numerous attempts were made to find an optimal model aimed at defining the legal nature of cryptocurrencies and regulating their circulation. Undoubtedly, for cryptocurrency traders, the main indicator of income is the market rate, which is prone to growth or decline. The reasons for the dynamics of Bitcoin's price depend on the financial climate in the cryptocurrency market, which is mostly associated with positive and negative events in the world: positive events lead to an increase in the price of cryptocurrency, while negative events lead to a decrease (Babych, 2024; Mirza, 2024). For example, since the beginning of 2022, the year of Russia's full-scale aggression against Ukraine, the cryptocurrency market has lost about 1 trillion USD in market capitalisation due to a combination of negative factors (rising global inflation), which led to a series of high-profile bankruptcies involving crypto-hedge funds and creditors, including Celsius Network, Voyager Digital and Three Arrows Capital, and the reduction of activities of companies such as Blockchain.com and Coinbase. According to data collected by Finbold, the number of bitcoin millionaires decreased by 70.23% in the first three quarters of 2022 due to the bear market, and as of 28 September 2022, the total number of bitcoin millionaires was only 29,497 (The 15 Most Popular..., 2022).

The unregulated process of Bitcoin's value is a cause for concern for some countries, and not every wealthy citizen can afford to risk investing traditional assets (bonds and shares) in cryptocurrency. However, according to statistics, Slovenia has the highest share of citizens (18%) investing in cryptocurrencies, followed by Croatia (16%), Luxembourg (14%), Bulgaria and Cyprus (13%) (Sereda, 2023). The top 10 also includes Slovakia, Austria, Portugal, the Czech Republic, and Estonia.

Issues of legislative regulation of cryptocurrencies. Regarding the current problems of virtual assets circulation, there are ongoing discussions in Ukraine regarding two draft laws: Draft Law of Ukraine No. 10225 "On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Regarding the Regulation of Virtual Assets in Ukraine" (2023) and Draft Law of Ukraine No. 10225-1 (2023) proposed by the National Securities and Stock Market Commission of the same content. During the discussion of both draft laws, certain problematic issues arose among the deputies, which are generally related to high taxation rates that will negatively affect crypto investments, as well as the expediency of introducing a rule prohibiting virtual assets from being a contribution to the authorised capital. Notably, the draft law developed by the Ministry of Digital Transformation, which contains transparent and clear rules for the taxation of virtual assets, is more appropriate and less burdensome for taxpayers in terms of keeping records of such transactions.

Therefore, the provision on the value of a virtual asset, which appears in the current definition of it in Ukrainian legislation, is controversial. The paper published under the auspices of the European Central Bank, which summarises the results of the analysis of its tasks on cryptoassets, states that "...the term "crypto asset" defines any digitally recorded asset that neither implies financial claims on any natural or legal person nor financial liabilities of any natural or legal person and does not embody a property right directed against anyone" (ECB Crypto-Assets Task Force, 2019). The definition adopted by the Office of the Financial Supervision Authority of Poland (UKNF) also does not reveal the value

aspect of cryptocurrencies, which are defined as: "a digital representation of the relationship between participants in a DLT (distributed ledger technology) network, to which rights of various kinds can be attributed in this network, including, for example, property rights" (UKNF, 2020). The position of the authors of the study by R. Houben and A. Snyers (2020), conducted at the request of the Committee on Economic and Monetary Policy of the European Parliament, is particularly revealing. While declaring that they base the definition of cryptoassets on the definition used by the European Banking Authority, they abandoned the first component of this definition ("Cryptoasset means an asset that: (a) depends primarily on cryptography and distributed ledger technology (DLT) or similar technology as part of its perceived or inherent value, (b) is not created or guaranteed by a central bank or government authority, and (c) can be used as a medium of exchange and/or for investment purposes and/or to gain access to a good or service"), which contained the terms "inherent value" and "perceived value". As a result, the cryptoasset R. Houben and A. Snyers (2020) defined it "as a private digital asset that: a) is recorded in some form of digital distributed ledger protected by cryptography; b) is not created or guaranteed by a central bank or government agency; c) can be used as a medium of exchange and/or for investment purposes and/or to access a good or service".

An important prerequisite for the effective regulation of legal relations arising in connection with the circulation of virtual assets is the availability of a clear classification of these assets. Shortly before the adoption of Law of Ukraine No. 2074-IX (2022), Simcord CEO A. Kud (2021) proposed a three-tier classification of virtual assets, considering their technological, economic and legal, and information and application nature. This approach further describes their multifaceted nature and establishes the basis for legal regulation. At the first, technological level, virtual assets are divided into two types. The first group includes assets of the distributed ledger, which are represented in the form of tokens with unique identifiers in accounting systems. The second group includes assets of the non-distributed ledger that are created based on other technologies, such as electronic money or digital certificates. The second level reflects the economic and legal nature of assets. This includes tokenised assets that are derived from the primary asset and created as a result of transactions with it. Another type of cryptoassets is those that are not backed by property or property rights, which makes them subject to high financial risks. For instance, threats to traditional financial systems (Tsiura *et al.*, 2024; Inshakova *et al.*, 2024) or legal risks (Tsvyetkov, 2024). At the third, information and application level, the classification includes three types of tokenised assets. These are the digital assets of decentralised platforms that circulate in distributed ledgers, monoassets that are indivisible, and polyassets that are divisible and represent property rights. This classification provides a valuable reference point for understanding the nature of virtual assets and improving legal regulation. Its consideration is important for creating a transparent regulatory environment in Ukraine.

Among the criteria according to which A. Kud (2021) built the classification, the Law of Ukraine No. 2074-IX "On Virtual Assets" (2022) uses one, namely, the one according to which this classification distinguishes between tokenised assets and cryptoassets. This is done in Art. 4 of the legislative act, according to which, according to Part 1, virtual assets can be unsecured or secured. These groups of virtual assets are described in Article 1 of the Law as follows: a secured virtual asset is a virtual asset that certifies property rights, including claims to other objects of civil rights; an unsecured virtual asset is a virtual asset that does not certify any property or non-property rights.

The division of virtual assets into secured and unsecured assets was described by O. Chernykh (2021), Deputy Chairman of the Committee on Commercial Law and Procedure of the Ukrainian National Bar Association, as a simplified classification. Following the opinion, the definition of virtual assets only based on their collateralisation with non-virtual assets is dangerous in terms of ensuring the clarity of the legal regulatory regime and does not comply with European legislation. This, however, could lead to legal conflicts and non-recognition of Ukrainian legal regulation of virtual assets by key financial institutions.

The definition of virtual assets, which before Law of Ukraine No. 2074-IX (2022) was contained in Law of Ukraine No. 361-IX (2019), provided for their use as a means of payment. Instead, according to clause 7 of Article 4 of the first of these legal acts, virtual assets are not a means of payment in Ukraine and cannot be exchanged for property (goods) or works (services). Commenting on this provision, Ukrainian lawyer, auditor and scholar O. Yefimov (2022) noted that it primarily concerns unsecured virtual assets, which, following the opinion, can be regarded as private money. According to the scientist, the Ukrainian legislator, by prohibiting the use of virtual assets as a means of payment and stating that they cannot be exchanged for property (goods), or work (services), tried to prevent the transformation of such assets into private money. However, O. Yefimov (2022) further argues that even the fact that the legislation recognises unsecured assets as an object of civil legal relations creates an opportunity for such assets to compete with the national currency and turn into, following the scientist, is "a kind of private money". In this context, it is worth noting the favourable attitude to this opportunity that has been recorded among employees of banking institutions in Ukraine: in an anonymous survey conducted by V.D. Ivaniuk (2021), 76.3% of respondents, when asked "In your opinion, can cryptocurrency be used as a means of payment?", replied positively.

Treating a part of virtual assets as private money, O. Yefimov (2022) recalls the opinion of F. Hayek (1990) that "private enterprises, if they had not been hindered by government, would have long ago provided society with a wide choice of currencies, and those of the monetary units that would win in competition would have stable value and prevent both overinvestment and subsequent periods of decline". The connection between this idea and the theory and practice of cryptocurrency circulation is demonstrated in several other publications on the legal and economic aspects of the issue of virtual assets, among which it is possible to highlight the work of Ukrainian scholar O. Boyko (2019). It is worth noting the opinion of A. Sieroń (2013) that: "One can even dare to put forward the thesis that the concept of virtual currency goes even further than the project of denationalisation of money proposed by the 1974 Nobel laureate, since this project involved top-down reform, i.e. the abolition of legal tender regulations by the government, while in the case of bitcoin, changes are entirely bottom-up, and potential negative effects from

the state are difficult to avoid due to the decentralised nature of the issuance of this medium of exchange".

The legal regulation of virtual assets significantly affects the social and economic sphere, creating new challenges and opportunities for society. The absence of a clear legal framework can lead to risks associated with violations of users' rights, financial instability, and increased inequality (Golumbia, 2016). From a social perspective, access to virtual assets creates conditions for financial inclusion, especially for those segments of the population that do not have access to traditional banking services. At the same time, however, without proper regulation, new forms of social vulnerability may emerge, such as fraud, uncontrolled speculation, or the involvement of citizens in pyramid schemes (Houben & Snyers, 2020). Legal mechanisms must ensure the protection of users' rights and build trust in digital tools.

In the context of the economy, effective regulation can foster the development of the virtual asset market, stimulate innovation and attract investment. At the same time, excessive regulation or high tax rates can lead to capital flight and a reduction in entrepreneurial activity (DeVries, 2016). In addition, virtual assets have the potential to create jobs in the fields of technology, finance, and law. Experience from other countries shows that the use of virtual assets can be integrated into government social support programmes, such as digital subsidies or targeted cash transfers. This can increase the efficiency of resource allocation and reduce administrative costs (Chernykh, 2021). From a regulatory perspective, it is necessary to account for the aspects of self-regulation that are considered in studies of complex governance systems (Shvets *et al.*, 2024). Legislative regulation of cryptocurrencies is an important tool for police, especially in the context of hostilities, as it provides a legal framework for combating terrorist financing and other war crimes involving virtual assets. Similar approaches can be applied to the regulation of digital assets, where the principles of self-control and responsibility of market participants play a significant role. Thus, the improvement of Ukraine's legislative framework on virtual assets should address both economic and social aspects, which will create a favourable environment for the development of this market and ensure the protection of users' rights.

Conclusions

Given the above analysis, the absence of a cost aspect in the definition of a cryptoasset is justified. Based on the logic of this approach, a virtual asset should be interpreted as an intangible good expressed by a set of data in electronic form, which can be an independent object of civil turnover or certify property or non-property rights, including rights of claim to other objects of civil rights. Analysing the adopted Law of Ukraine No. 2074-IX "On Virtual Assets" as amended in 2022, it is worth noting the criticism of the use of the term "virtual assets" to regulate relations with cryptocurrencies, since globally the term "virtual assets" is used to refer not only to cryptocurrencies but also to other types of digital property. The use of the term "virtual assets" in Law of Ukraine No. 2074-IX has been criticised as it does not fully comply with international standards. According to the FATF recommendations and other international documents, virtual assets are defined as a digital expression of value that can be used for payments or investments. At the same time, Ukrainian legislation includes both cryptoassets and other types of digital goods in this concept, which creates some terminological confusion.

The international approach emphasises the separate regulation of cryptocurrencies due to their unique risk profile associated with high volatility, anonymity and the risk of being used in criminal activities. Instead, Ukrainian legislation lumps cryptocurrencies together with other intangible goods, which may reduce the effectiveness of their regulation. Such an ambiguous understanding of the content of cryptocurrencies in Ukraine may lead to a violation of the rights and legitimate interests of users of virtual assets due to several factors. First, the terminological inconsistency with international standards creates legal uncertainty, which complicates the protection of users' rights in cross-border transactions and impedes the integration of the Ukrainian market into the global regulatory environment. Secondly, the lack of a clear distinction between cryptocurrencies and other digital goods in the legislation may lead to uneven legal regulation and risks for users. This may affect the availability of legal protection, regulation of tax liabilities and risk management. Aligning Ukrainian legislation with international standards will help ensure legal certainty, increase the investment attractiveness of the market, and create stable conditions for protecting the rights of users of virtual assets.

Notably, the Ukrainian cryptocurrency community, considering the FATF recommendation, proposals and disagreements among scholars and government officials, is expecting the adoption of the final updated multifaceted legislation that will contribute to the positive regulation of clear and well-defined legal relations in the field of virtual assets. Therefore, further research could compare the regulation of cryptocurrencies by national laws of different countries to find the most effective approaches to their definition.

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Conflict of interest

None.

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Проблеми правового регулювання віртуальних активів: можливі соціальні та економічні наслідки

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Анотація. Проблема правового регулювання віртуальних активів є надзвичайно актуальною у зв'язку зі зростанням їхньої ролі у сучасній економіці та фінансовій системі, а також з огляду на виклики, які виникають через їхню правову невизначеність. Метою статті було обґрунтування теоретико-прикладних засад для створення єдиного концептуального розуміння віртуальних активів, яке забезпечить їхню правову визначеність. У роботі використано методи порівняльного аналізу, синтезу, системного підходу та історико-правовий метод для вивчення міжнародного досвіду і національного законодавства. Було проаналізовано сучасні підходи до визначення віртуальних активів у міжнародному контексті та українському законодавстві, зокрема Закон України «Про віртуальні активи». Встановлено, що існуючі дефініції містять неоднозначності, які можуть спричинити правові суперечності. Було досліджено аргументи науковців щодо природи криптовалют, зокрема їхньої внутрішньої вартості, і зроблено висновок, що відсутність єдиного підходу ускладнює розробку ефективного регуляторного середовища. Проаналізовано можливі соціальні та економічні наслідки, зокрема вплив на інвестиції та фінансову стабільність, враховуючи напрацьований досвід. Запропоновано уточнене визначення віртуальних активів як нематеріальних благ, що можуть бути самостійним об'єктом цивільного обороту або посвідчувати майнові чи немайнові права. Практична цінність роботи полягає у можливості використання її результатів законодавцями, державними органами, а також науковцями і практиками для вдосконалення нормативної бази, що регулює обіг віртуальних активів, з метою забезпечення прав користувачів та залучення інвестицій у цю сферу

Ключові слова: цифрові активи; правовий статус криптовалют; ризики фінансових операцій; регуляція віртуального ринку; цивільні права; соціальна відповідальність

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Risk modelling as a way to diagnose corruption in procurement system: Practice and legislation

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Abstract. The study aimed to analyse risk modelling methods for diagnosing and preventing corruption in public procurement. The research methods included an analysis of the existing legislation of Kazakhstan in the field of public procurement and an in-depth study of cases that illustrate the real experience of implementing methods of diagnosing corruption in this area. In the context of the intensified fight against corruption in Kazakhstan, state and municipal procurement systems were emphasised. One of the methods of diagnosing corruption risks in such systems is risk modelling, which helps to identify potential weaknesses and abuses in the tender and procurement process. The study identified the main factors contributing to corruption in the public procurement system and offers recommendations for improving legislative and organisational mechanisms to increase transparency and accountability in the tender process. The study also identified key factors contributing to corruption in Kazakhstan's public procurement system, including insufficient transparency of tender procedures, lack of effective control mechanisms, and collusion between tenderers. An analysis of the existing legislation of Kazakhstan in the field of public procurement was conducted, and regulatory gaps that impede corruption prevention were identified. Recommendations for improving legal regulation are offered legal regulation, taking into account international experience and standards. The key conclusion is that risk modelling is becoming substantial in the fight against corruption, as it allows for the advanced prediction and elimination of possible threats,

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thereby improving the efficiency of the public procurement system. Practical application of the proposed methodological approaches, integration of social data and modern technologies, such as artificial intelligence, in the monitoring of public procurement opens opportunities to increase transparency and efficiency of anti-corruption mechanisms

Keywords: compliance control; digital audit tools; fraud prevention; control efficiency; transparency

Introduction

Corruption in the public procurement system remains one of the most acute problems for many countries, including Kazakhstan. In the context of the digitalisation of the economy and the growing focus on transparency in government processes, the need to identify corruption risks at an early stage is becoming a strategic objective (Ternov *et al.*, 2024). The introduction of new monitoring tools based on big data analysis, machine learning and risk modelling can significantly improve the effectiveness of anti-corruption policy. One of the most promising ways to combat corruption in public procurement is to use social data, such as the level of public trust in the government, the level of transparency of government agencies, analysis of social media content, the results of opinion polls, and data on procurement, taxation and company profits. These parameters were used not only to record the facts of violations but also to predict potential corruption schemes based on statistical and behavioural analysis.

In global practice, there are already models for assessing corruption risks that integrate social data into anti-corruption strategies. For instance, the Bayesian Corruption Indicator allows for the consideration of many factors that affect the likelihood of corruption schemes. However, such methods have not yet become widespread in Kazakhstan, which creates a gap in the effectiveness of government control over procurement. An important aspect of the study is the analysis of the current legislation of Kazakhstan in the field of public procurement. Despite the existence of regulations aimed at increasing the transparency of tender procedures, practice shows that legislative mechanisms do not always allow for the detection of complex schemes to circumvent laws (Rysin & Sukh, 2024). In this regard, the question of the possibility of introducing new mathematical models for diagnosing corruption, which would address the specifics of Kazakh legislation and be adapted to national realities, becomes relevant. Corruption in the public procurement system remains one of the key issues affecting the efficiency of budget allocation and economic development (Busol & Romaniuk, 2024). One of the modern methods of identifying and preventing corruption risks is mathematical modelling. This review examines the existing research on corruption in procurement, the risk models used and the legal and regulatory aspects governing this process in Kazakhstan.

Zh. Khamitov *et al.* (2023) highlight a close relationship between corruption, public procurement and political instability in Kazakhstan. The authors emphasise that corruption schemes in public procurement are significantly exacerbated in conditions of political instability, which threatens the effectiveness of public administration. However, there is still a gap in the study of issues related to the practical implementation of the proposed measures in a rapidly changing political situation, which requires further analysis.

Zh. Khamitov (2023) analyses public spending, where the author monitors tender procedures, identifying patterns and weaknesses in the public procurement system. In particular, the study focuses on the shortcomings in the process of planning, implementation and control of procurement, suggesting the use of digital technologies to increase transparency and prevent corruption. At the same time, the study does not address the possible problems associated with the introduction of such technologies at the level of public authorities, including problems with staff training and integration of digital solutions into existing systems. O. Ramashov *et al.* (2024) noted that despite the existence of a legal framework, the effectiveness of anti-corruption measures is limited by shortcomings in oversight mechanisms and weak interaction between state bodies and civil society.

D.A. Urbina and G. Rodríguez (2022) analysed the impact of corruption on economic growth, human development and the natural resources sector in Latin America and the Nordic countries using Bayesian panel video assistant referee (VAR) analysis. They conclude that corruption has a negative impact on living standards and sustainable development, emphasising the need for a comprehensive approach to fighting corruption. A.R. Dipierro and A. Rella (2024) propose a cultural approach to studying the perception of corruption, emphasising that cultural differences are central in shaping public opinion about corruption. The study emphasises the importance of considering local specifics when developing anti-corruption strategies. A. Ekici and Ş.Ö. Ekici (2021) applied Bayesian networks to model bribery in business transactions, offering an innovative method for analysing corruption risks. The authors emphasise that the use of mathematical models can improve the accuracy of diagnosing corruption schemes. P.F. Villar (2021) evaluated the Extractive Industries Transparency Initiative (EITI) using a Bayesian corruption indicator, noting that this methodology can be an effective tool for monitoring and assessing corruption risks in this sector. M. Gnaldi and S. Del Sarto (2024) investigate methods for measuring corruption risks in public procurement in times of emergency. Their findings highlight the importance of adaptive risk assessment models to ensure transparency in crises. J.Á. Lafuente *et al.* (2022) analysed the convergence of perceptions of corruption in different countries, identifying trends towards convergence of views on corruption risks on an international scale. Their findings highlight the importance of global cooperation in the fight against corruption.

In general, current research confirms the need to introduce mathematical models to combat corruption in public procurement but also points to the complexities and challenges associated with their practical application and the need for a closer correlation between theoretical developments and real mechanisms of public administration. The gap remains in terms of the insufficient adaptation of existing models to the real conditions of public institutions and the necessary changes in the regulatory framework to effectively integrate such methods into everyday practice.

The study aimed to explore the possibilities of using social data to diagnose corruption. The objectives of the study were to analyse key models of anti-corruption compliance; to analyse the legislation on public procurement of the Republic of Kazakhstan, to propose methodological additions

to mathematical models that would facilitate better consideration of social data in the fight against corruption in the procurement process in Kazakhstan.

Materials and methods

Regulatory and legal analysis was used to identify the key regulations that define the legal framework and processes governing procurement in Kazakhstan. Among such acts are the Law of the Republic of Kazakhstan No. 434-V "On Public Procurement" (2015), the Resolution of the Government of the Republic of Kazakhstan No. 127 "On Definition of a Special Procedure for Public Procurement" (2020), the Code of the Republic of Kazakhstan "On Taxes and Other Obligatory Payments to the Budget" (2017), Resolution of the Government of the Republic of Kazakhstan No. 269 "On Approval of the Concept of Digital Transformation, Development of the Information and Communication Technology Industry and Cybersecurity for 2023-2029" (2023).

The comparative method was used to analyse successful practices from Kazakhstan, the United Kingdom, and the United States, such as the Decree of the President of the Republic of Kazakhstan No. 802 "Anti-Corruption Policy Concept of the Republic of Kazakhstan for 2022-2026" (2022), the "United Nations E-Government Survey 2024: Accelerating digital transformation for sustainable development" (United Nations, 2024), and the Government procurement of the Republic of Kazakhstan (n.d.), which provides up-to-date information on past and current tenders. The platform allows tracking the results of tenders and identifying possible anomalies or suspicious activities, which is an important tool for analysing and forecasting corruption risks.

The study used compliance control methods based on international standards. In particular, the standard ISO 37001 (2025) was used, which was adopted in Kazakhstan. This standard regulates the implementation and maintenance of effective anti-corruption mechanisms in organisations. Additionally, the approach to risk management set out in the document Enterprise Risk Management (Committee of Sponsoring Organizations', n.d.), was analysed. This methodological tool can be used to integrate risk management into strategic planning and increase the effectiveness of control over corruption threats.

International indices are used to assess the level of corruption and the effectiveness of anti-corruption measures, including the Corruption Perceptions Index (CPI) (n.d.) published by Transparency International. This index can be used for a comparative analysis of anti-corruption policies in different countries and an assessment of the dynamics of corruption risks. In addition, the study used report of the World Bank Group (2021). To determine the impact of trust factors on the perception of corruption risks in the public sector, an analysis was conducted using data from the Bureau of National Statistics (2024), which provides relevant information for analysing and monitoring corruption risks in the country.

Results

One of the key areas in the fight against corruption in public procurement is the implementation and development of anti-corruption compliance systems. Compliance is a set of measures and procedures aimed at preventing and minimising corruption risks in public and private organisations. Modern models of anti-corruption compliance are based on a risk-based approach, which analyses the probability of corruption depending on several factors.

One of the most widely used tools is the international standard ISO 37001 (2025). This standard is designed to create a universal system for controlling and preventing corruption in organisations. ISO 37001 provides for the development and implementation of measures to identify corruption risks and requires effective internal controls, reporting and independent monitoring mechanisms. In Kazakhstan, this standard is adapted as ST RK ISO 37001 and is recommended for application in various sectors, including public institutions. For instance, in 2020, methodological recommendations on the implementation of this standard were developed to help organisations correctly interpret and apply its requirements (Methodological recommendations for…, 2023). The practical application of ISO 37001 in the field of public procurement is confirmed by specific examples. Thus, the Joint Stock Company (JSC) "Kazakhstan Housing Company" announced a tender for a certification audit of the anti-corruption management system for compliance with ISO 37001. This demonstrates the willingness of state organisations to comply with international anti-corruption standards.

Another significant anti-corruption control model is the risk management concept proposed by the Committee of Sponsoring Organizations' (n.d.) of the Treadway Commission (COSO). This model focuses on comprehensive Enterprise Risk Management (ERM) and includes analysing and assessing the factors that contribute to corruption. COSO suggests using a multi-layered approach to identifying corruption threats, ranging from regulatory analysis to a detailed review of an organisation's internal processes. In Kazakhstan, the risk management concept proposed by the Committee of Sponsoring Organizations the COSO is being actively implemented to strengthen anti-corruption controls and increase the transparency of processes, including public procurement. KazMunayGas JSC (KMG) has an internal control system based on the COSO model, which includes five interrelated components: control environment, risk assessment, control procedures, information and communications, and monitoring. This system is aimed at ensuring operational efficiency, reliability of financial reporting and compliance with the legal requirements of the Republic of Kazakhstan. JSC Kazakhstan Electricity Grid Operating Company (KEGOC) has implemented and operated a risk management system based on the COSO guidance "Enterprise Risk Management" (Society of Corporate Compliance and Ethics & Health Care Compliance Association, 2020). The corporate risk management system is a key component of corporate governance aimed at the timely identification of risks, their assessment and the development of management measures, which contributes to the achievement of the company's strategic and operational objectives.

Kazakhstan actively uses the Corruption Perceptions Index (n.d.), published annually by Transparency International, to assess and monitor the level of corruption. This index is based on expert and sociological data reflecting the perception of corruption in the public sector in various countries. In 2024, Kazakhstan ranked 88th out of 180 countries in the Corruption Perceptions Index, scoring 40 points out of a possible 100. This is an increase of 1 point compared to the previous year when the country scored 39 points. Since 2016, Kazakhstan has improved its score by 11 points, rising from 29 to 40, indicating gradual progress in

the fight against corruption. Despite the positive dynamics, Kazakhstan is still among the countries with high levels of corruption, as a score below 50 indicates significant problems in this area. To further improve the position, systemic reforms are needed to strengthen the independence of the judiciary, increase the transparency of government processes and the active participation of civil society in anti-corruption activities. In the regional context, Kazakhstan is the leader among Central Asian countries, ahead of Uzbekistan (32 points, 121st place), Kyrgyzstan (25 points, 146th place) and Turkmenistan (17 points, 165th place). However, further efforts and implementation of effective anti-corruption measures are needed to reach the level of countries with low corruption perceptions. Incorporating social data (such as survey results, social media and other sources of public opinion) into anti-corruption models such as ISO 37001 and COSO is an innovative step in the fight against corruption. Social data enables more accurate and timely identification of corruption risks, as well as helps to predict and prevent potential corruption cases.

Singapore is one of the countries actively using social data to fight corruption. For example, by analysing social media and conducting public opinion polls on the transparency of public procurement, government agencies can quickly identify suspicious activities and corruption risks. According to Transparency International, Singapore consistently ranks high in the corruption perception ranking, which is largely due to the active use of social data and technology to monitor public opinion (Thach & Ngoc, 2021). In the UK, social data has been used to assess the risks of corruption in tenders and public spending. The use of social network analysis and other data identified "dark spots" in tenders that could be associated with corruption risks. In some cases, the use of social data established links between contractors and politicians, which subsequently led to the renegotiation of public contracting decisions (Nguyen & Duong, 2022). In the US, social data is actively used to analyse corruption risks in public procurement. Polls, opinion surveys and social media data help predict potential corruption risks associated with transparency in the management of public funds. In addition, machine learning algorithms are actively used as part of social data analysis to help identify risk patterns at an early stage (Saunoris & Payne, 2024).

According to Transparency International, 69% of the 180 countries in which corruption perceptions were analysed use social data to monitor and prevent corruption risks (Corruption Perceptions Index, n.d.). In Singapore, according to a Singapore's Corruption Control Framework (n.d.), the use of social data in anti-corruption initiatives has helped reduce corruption in public procurement by 10% over the past 5 years. According to a World Bank Group (2021) report, 42% of countries using social data report a 25% increase in the effectiveness of their anti-corruption strategies.

One of the most significant indicators of corruption risks is the level of trust of citizens in state institutions. Sociological studies show that a high level of corruption directly correlates with a low level of public trust in government (Abikenov *et al.*, 2019; Abbasova *et al.*, 2023). If citizens do not believe in the fairness of public procurement, it indicates the presence of systemic problems that require detailed analysis. In Kazakhstan, data on trust in government bodies can be obtained from public opinion polls conducted by both government and independent analytical centres. The level of trust of Kazakh citizens in state institutions is an important indicator of the effectiveness of public administration and the fight against corruption. According to the Kazakhstan Institute for Strategic Studies under the President of the Republic of Kazakhstan (2024), the level of trust in the President of the Republic of Kazakhstan, Kasym-Jomart Tokayev, is 77.1%. However, the level of trust in other state bodies, such as the prosecutor's office, the police and the judiciary, is significantly lower. According to the Bureau of National Statistics (2024), the share of those who trust the prosecutor's office is 66%, the police 61.6%, and the judiciary 61.8% (Fig. 1).

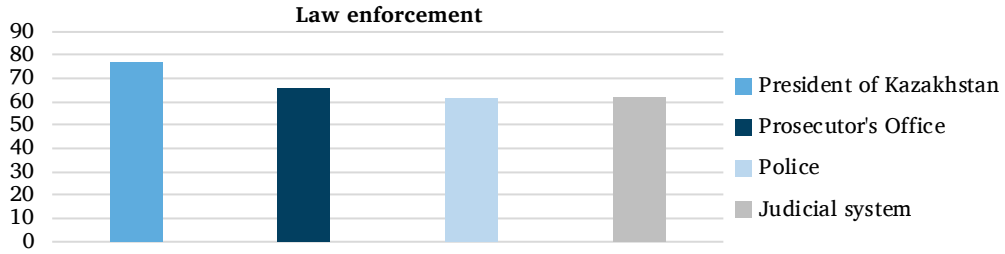

Figure 1. The level of public trust in various government agencies in Kazakhstan in 2024

Source: compiled by the authors based on Kazakhstan Institute for Strategic Studies under the President of the Republic of Kazakhstan (2024), Bureau of National Statistics (n.d.)

These data indicate the need to increase citizens' trust in state institutions, which can be achieved through increased transparency, improved quality of services and active involvement of citizens in decision-making processes. Another important component of monitoring is indicators of government transparency. International organisations such as Open Data and E-Government are developing methodologies to assess the availability of information on public finance, procurement and expenditure. The more open government data is, the lower the probability of corruption, as public control makes it more difficult for shadow schemes to materialise. Kazakhstan has a functioning public procurement portal, but the issue of its transparency and data availability remains relevant. The integration of international transparency standards, such as the Open Contracting Data Standard (OCDS), can significantly improve the effectiveness of anti-corruption monitoring. According to the United Nations (2024) "United Nations E-Government Survey 2024" study, Kazakhstan ranks 28th on the e-Government Development Index and 8th on the Online Services Index. This indicates a high level of e-services development and transparency in the country. In 2018, Kazakhstan moved up from 83rd to 40th place, and in 2023 it ranked 31st out of 195 countries, reflecting improvements in cybersecurity and data

protection (Resolution of the Government of the Republic of Kazakhstan No. 269, 2023).

These tools and indicators demonstrate Kazakhstan's commitment to improving the transparency and efficiency of public administration. However, further improvements will require the continued development and integration of new technologies, such as artificial intelligence, to analyse and monitor open data, as well as the active involvement of citizens in decision-making and oversight of government agencies. Content analysis of social networks and media is essential for identifying red flags indicating possible corruption risks in the public procurement system. Active discussion of tender procedures, suspicious comments and negative feedback can serve as indicators of potential violations. For instance, in 2023, the Almaty Akimat paid almost 260 million tenge for monitoring publications in the media and social networks, including analyses of criticism of the work of local authorities. It is also known that in 2022, 574,063 users were registered on the portal goszakup.gov.kz, which indicates a high level of involvement of citizens in the process of public procurement. In 2024, Almaty Akimat entered a contract for 249,600,000 tenge to procure media and social media monitoring services. The main requirements included the collection of information on the most important events affecting the development of the city, materials on problems requiring prompt response, and conducting social surveys among the population. As of 20 February 2025, the number of registered users on the public procurement portal of the Republic of Kazakhstan was 577,888 people (Government procurement of the Republic of Kazakhstan, 2022).

Analysis of open data on public procurement, taxation and revenue is an important tool for increasing transparency and fighting corruption in Kazakhstan. Access to such data allows citizens, businesses and government agencies to effectively monitor financial flows and identify potential violations. The web portal of government procurement of the Republic of Kazakhstan (n.d.) provides centralised access to information on tenders held, contracts awarded and their execution. Data on procurement plans, bidding results and contract performance reports is available on the portal. According to the World Bank Group (2023), in 2022, Kazakhstan's public expenditure is 22.5% of gross domestic product (GDP). At the end of 2022, the volume of public procurement in Kazakhstan totalled more than 5.8 trillion tenge. At the same time, 80% of purchases were made from small and medium-sized enterprises (Results of 2022…, 2023).

RBC Group (n.d.) is actively using machine learning methods to analyse public procurement data, which allows it to effectively identify anomalies and potential corruption schemes. In particular, the use of machine learning algorithms allows the processing and analysis of huge amounts of tender data, including information on participating companies, contract sizes, tender winners and their connections to government agencies. Thus, the use of social data in anti-corruption monitoring of public procurement opens up new opportunities for identifying and preventing corruption risks. The inclusion of public trust indicators, transparency indicators, media analysis and a detailed study of financial data will create a comprehensive monitoring system capable not only of recording corruption facts but also of preventing their emergence.

To improve the fight against corruption risks in Kazakhstan's public procurement system, it is possible to propose the integration of social data and automation within the framework of existing legislative and methodological acts. One of the key methodological improvements is the integration of social data, such as survey results, citizen feedback, and content analysis of public discussions, into the public procurement monitoring system. According to the Law of the Republic of Kazakhstan No. 434-V (2015), information on tenders and winners should be open and available through the portal goszakup.gov.kz. However, to improve the effectiveness of monitoring and identifying corruption risks, it is important to integrate data on the perception of public bodies and tender procedures, as well as analysing comments and publications on social media. For instance, analysing comments on social platforms can identify suspicious patterns and red flags, such as links between bidders, which will serve as an additional indicator for deeper audits. Singapore's Corruption Control Framework (n.d.) indicated that the use of social data in anti-corruption initiatives led to a 10% reduction in corruption in tenders. This was achieved by monitoring publications and analysing negative feedback on public procurement processes. Incorporating social data into monitoring algorithms can be an important step towards predicting corruption risks.

An important part of the Decree of the President of the Republic of Kazakhstan No. 802 (2022) is compliance control, which includes monitoring and control over compliance with anti-corruption standards. Legislation requires government agencies to monitor compliance with anti-corruption standards, but for effective control to be implemented, it is necessary to address the opinions of citizens and experts, which is possible through the integration of data from social media portals and independent surveys. In this context, the creation and implementation of a platform that collects data from social media and combines it with tender data will not only identify violations but also predict corruption risks.

The Code of the Republic of Kazakhstan (2017), which regulates taxation in the field of public procurement, is also of substantial role. This code describes issues related to the tax obligations of tenderers and contractors, such as value added tax (VAT) and other mandatory payments. The tax aspects are important for the correct calculation of the value of tenders and contracts, as well as for assessing how efficiently public funds are used. To clarify and supplement the regulations in this area, various Resolutions of the Government of the Republic of Kazakhstan were also adopted, such as the Resolution of the Government of the Republic of Kazakhstan No. 127 (2020), which regulates more detailed aspects of tenders and auctions. This resolution defines the rules by which tenders, auctions and other forms of public procurement should be conducted and aims to increase their transparency and reduce administrative barriers.

The main tool for monitoring public procurement in Kazakhstan is the portal goszakup.gov.kz. This resource is used not only to publish information on tenders and contractual agreements but also to analyse procurement data. The portal provides access to detailed information on tender contract distribution and the recipients. However, the portal is not always fully used to diagnose corruption. One of the most effective ways to reduce corruption risks is to automate the processes of checking tenderers, which is already provided for in some parts of the legislation. In particular, the integration of machine learning and big data processing systems on the goszakup.gov.kz platform will allow not

only to collection of information on tenders but also to automatic identify suspicious connections and anomalies. For instance, algorithms can analyse historical data and identify similar patterns in submitted bids, which facilitates the automatic exclusion of those who may be linked to corruption schemes. In the US, the Anti-Corruption Bureau uses statistical methods, including machine learning, to analyse tender procedures and identify suspicious patterns of behaviour in government contracts. This allows for more effective detection of corruption without relying solely on the subjective judgement of inspectors (Saunoris & Payne, 2024). In 2023, the Almaty Akimat paid almost 260 million tenge to monitor media and social media publications, including analysing criticism of local government performance (Saparov, 2025). This shows an interest in using social data to monitor processes. Integrating such data into the broader context of procurement automation through machine learning systems will reduce corruption risks.

In summary, Kazakhstan's public procurement legislation already contains the foundations for ensuring transparency and minimising corruption risks. However, its current mechanisms require improvement and integration with new monitoring methods, including the use of social data and automated analysis tools. In the context of the fight against corruption in the public procurement system of Kazakhstan, key gaps in the legislation were identified that significantly limit the possibilities of effective anti-corruption monitoring. These shortcomings relate to both the insufficient use of social data to diagnose corruption risks and the lack of modern technologies to predict and prevent possible violations. In particular, the absence of systematic monitoring using artificial intelligence, as well as limited opportunities for automating the verification of procurement participants, create gaps in anti-corruption activities.

To increase the effectiveness of anti-corruption monitoring in the public procurement system using social data, several methodological additions should be made to integrate new technologies and consider behavioural factors in corruption risk assessment models. These additions can significantly improve the accuracy of diagnosing corruption schemes and increase the level of transparency in tender procedures. One of the most important steps in improving anti-corruption monitoring is to incorporate behavioural and social factors into existing mathematical models used to assess corruption risks. Currently, most models, such as the Bayes Corruption Indicator, focus on the analysis of economic, legal and operational data, but they do not consider an important social component, such as the level of citizens' trust in the authorities, the perception of corruption in society, and the behaviour of bidders. The inclusion of these factors allows for a more accurate assessment of the risks associated with corrupt behaviour. For instance, if there is a high level of citizen dissatisfaction with transparency in procurement in a region, this may be an indicator of an increased risk of corruption. Such social data can be collected through opinion polls, analysing content on social media and monitoring interactions between bidders. To integrate such factors into mathematical models, it is necessary to use approaches that combine qualitative and quantitative data, considering their mutual influence on the level of corruption (Kazbekova *et al.,* 2024).

Another important step is to use machine learning to predict possible corruption schemes. Machine learning technologies can analyse huge amounts of data on tenders, contracts and their executors, and identify patterns that may indicate possible manipulation or corruption. Machine learning can be used to develop systems that predict high risks of corruption based on the analysis of historical tender data and identified anomalies in the procurement process. For instance, algorithms can detect a pattern of reciprocal contracts between certain bidders, identify anomalies in pricing, or detect recurring patterns among contractors that win most tenders in the same region. These predictions can be substantial for government control bodies in identifying potential corruption schemes in advance and preventing them.

Lastly, the system of red flags should be expanded to include data from social media and surveys. Red flags are signals that may indicate increased risks of corruption. In traditional practice, such flags are based on economic and legal indicators (e.g., unreasonably low or high bids in tenders, and participation in tenders by companies with dubious reputations). In the modern environment, when information from social media and online resources has become available and can be used to analyse public opinion, it is necessary to include data on public perception of corruption, the level of trust in the authorities, and reactions to public scandals and investigations in the red flag system. Analysing social media content, such as reviews of public procurement or discussions of tenders on forums, can help identify negative public perceptions of a process. For instance, if a tender involving dubious companies is frequently discussed online, or if the discussions are accompanied by allegations of corruption, this may be a signal for monitoring. The inclusion of such data in the red flag system will allow for a more effective response to potential corruption threats and timely intervention in tender processes.

Thus, methodological proposals for improving anti-corruption monitoring through social data include a comprehensive approach that combines behavioural and social factors with modern technologies such as machine learning, as well as the expansion of the red flag system to identify corruption risks more accurately and timely. These measures will help create a more effective anti-corruption control system that will consider not only economic indicators but also social perceptions and behaviour of participants in tender transactions.

To improve the effectiveness of the fight against corruption in the public procurement system in Kazakhstan and improve anti-corruption monitoring, it is necessary to refine the existing legislation by introducing several innovative mechanisms (Yelshibayev *et al.*, 2021). Recommendations to improve legal regulation will focus on the integration of modern technologies such as artificial intelligence and the use of social data to identify and prevent corruption risks. The first recommendation is to introduce mandatory analysis of social data in the public procurement system. Social data, including public opinion, levels of public trust in state institutions, as well as information from social networks and the media, can serve as an important source of information for diagnosing corruption risks. The introduction of mandatory collection and analysis of this data will allow for the consideration of public perceptions, which in turn will increase transparency and reduce the possibility of manipulation in the procurement process. Legislation should provide for the establishment of a regulatory framework for regular monitoring of social data and its use for assessing

corruption risks. This will allow for prompt responses to possible problems and improve public perception of public procurement processes.

The second recommendation is aimed at integrating AI analysis of tender feedback into the public procurement monitoring system. Modern machine learning and natural language processing technologies can be used to automatically analyse feedback from tenderers, as well as comments from citizens on social media and specialised platforms. Integration of such a tool will help identify possible signs of corruption, such as systematic price gouging or manipulation of the selection of contractors. By using AI to analyse public feedback, it is possible to more accurately determine which tenders are causing public concern or suspicion, which facilitates prompt intervention by regulatory authorities. This will also enable timely response to potential corruption schemes, improving the quality of monitoring and increasing public confidence in the procurement system.

The third recommendation is to create a national platform for predictive analytics of corruption risks. This would be a specialised online platform that would use all available data, including open databases on tenders, and financial reports, as well as data from social media and feedback from participants, to predict the probability of corruption schemes. A platform that uses machine learning and predictive analytics algorithms can effectively identify high risks in the public procurement process by predicting potential anomalies and signs of corruption. The creation of such a platform will require the development of regulations governing the collection and processing of data, as well as confidentiality and data protection issues. The implementation of this system will allow the integration of various anti-corruption control mechanisms into one convenient tool available to government agencies, law enforcement agencies and public organisations. This will increase the effectiveness of monitoring and create opportunities for more active involvement of citizens in the processes of ensuring transparency and integrity of tender procedures.

In summary, the revision of legislation to include the introduction of mandatory social data analysis, the use of AI to monitor tender feedback and the creation of a predictive analytics platform for corruption risks will significantly improve the public procurement system in Kazakhstan. These measures will not only increase the level of transparency but also make the process more predictable and controllable, minimising the risks of corruption and increasing public trust in the government.

Discussion

This study was used to identify key approaches to diagnosing corruption in the procurement system, based on modern risk modelling methods. Notably, corruption in public procurement is a complex phenomenon caused by many factors, including political competition, discretionary powers of officials, length of time in office, and the level of public scrutiny. This includes the analysis of quantitative and qualitative methods of identifying corruption risks, the use of machine learning algorithms, network analysis, and the integration of legislative mechanisms into the diagnostic process.

Overall, the results of the study expand the understanding of the relationship between corruption and public procurement, while focusing on risk patterns and legislative aspects, unlike existing studies that often limit themselves to only one of these factors. Similarly, to studies by A. Alfada (2019) and J. Ferwerda *et al.* (2016), the study recognises the importance of corruption for economic growth but addresses the detection of corruption in the public procurement system through the integration of risk models. In contrast to approaches that consider only the economic impact of corruption, the proposed approach is focused on creating quantitatively based tools for early warning and diagnosis of corruption. In addition, contrary to most existing studies, this study emphasised the adaptation of models to the specific conditions of national legislation and the dynamics of its changes, which allows for increased diagnostic accuracy and minimisation of false positives.

F. Cao and C. Wang (2023), and D. Coviello and S. Gagliarducci (2017) addressed the accountability and discretionary powers of officials, which is also present in this study. However, the proposed model complements these aspects with a risk modelling mechanism that allows for more accurate identification of possible points of corruption in the context of public procurement. Additionally, contrary to the studies, the model incorporates the cumulative impact of risk factors at different stages of the tender process, which increases its predictive value.

The studies of F. Decarolis and C. Giorgiantonio (2022), and M. Fazekas *et al.* (2021), dedicated to identification of corruption indicators using statistical methods, employed similar approach. However, the proposed model integrates indicators into risk models, which can be used not to identify corruption but also to incorporate legal restrictions and practices. An important difference is the development of a system of weighting factors that allows the model to be adapted to national legislation and to identify violations following regulatory requirements.

M.J.G. Rodríguez *et al.* (2022) and M.S. Lyra *et al.* (2022) analysed machine learning methods for detecting corruption in public procurement. In contrast, this study integrates machine learning algorithms within a single risk model that incorporates legal and administrative factors. Particular attention is devoted to the interpretability of the models, which allows the results of the analysis to be used as a basis for making managerial decisions and improving the regulatory framework.

The studies by R. Broms *et al.* (2019) and M. Lisciandra *et al.* (2021) highlight the impact of political and tender competition on corruption risks. In the present study, these aspects are integrated with risk models, which allows identifying and mitigating corruption risks in a more comprehensive manner. Contrary to previous studies, the developed model can dynamically adapt risk parameters to changes in the political and economic situation, which ensures greater relevance of forecasts. In contrast to a study by F. Martínez-Plumed *et al.* (2019), which analysed technical solutions to detect corruption in administrative management, this study focuses on public procurement, incorporating legislative mechanisms and practices. The integration of quantitative and qualitative methods improves the accuracy of diagnostics and offers recommendations for improving the legal framework.

The study by I. Suardi *et al.* (2024) demonstrated how effective procurement management reduces corruption risks. The study constructed risk models that can be used for prediction and minimisation of corruption risks in practice, while addressing legislative aspects. In addition, the

proposed model evaluated the effectiveness of anti-corruption measures at different stages of the procurement process, which contributes to the improvement of the state control system. O.P. Vivien *et al.* (2023) used a non-linear approach to estimate the impact of corruption on economic growth. This study also incorporates economic consequences but focuses on risk modelling for early detection of corruption in public procurement. An important difference is the consideration of the multifactorial interaction between economic, legal and organisational aspects, which allows for the identification of hidden corruption schemes (Kostiuk & Iryna, 2024).

The network analysis methods proposed by O.M. Granados and J.R. Nicolás-Carlock (2021) are similar to the approach used in this study. However, the proposed model focuses on legislative factors and their impact on the procurement system. Contrary to the network methods used in other studies, the model integrates information on regulations and their changes, which allows for the legal context to be considered when analysing corruption risks. Analysis by L. Xie *et al.* (2019) emphasises the importance of public participation in the accountability of public projects. The study considers public participation as one of the elements of the risk model, along with legislative and administrative aspects. In addition, the model incorporates the dynamics of public control and its impact on the level of corruption risks at different stages of the procurement process.

Thus, the study comprehensively integrated risk models, legislative aspects and procurement management practices, which provides a more accurate and effective approach to diagnosing and preventing corruption in the public procurement system. The comprehensive approach ensures high adaptability of the model to changes in legislation and economic situation, which is efficient in increasing transparency and efficiency of public procurement.

Conclusions

Risk modelling with social data in the public procurement system is an important and necessary step to effectively fight corruption. The inclusion of social data, such as public opinion, levels of public trust in government institutions, as well as content from social networks and the media, significantly improves the diagnosis of corruption risks. These data can not only improve the accuracy of existing corruption assessment models but also provide additional sources of information to identify hidden threats that traditional economic and legal data cannot capture. Social data is central in creating more dynamic, sensitive and adaptable monitoring systems, allowing for timely response to changes in public perception or behaviour of tenderers.

Practical application of the proposed methodological approaches, integration of social data and modern technologies, such as artificial intelligence, in the monitoring of public procurement opens opportunities to increase transparency and efficiency of anti-corruption mechanisms. The introduction of machine learning systems for predicting corruption schemes and automatic analysis of social data not only identifies risks more quickly but also prevents them before developing into corruption scandals. The use of such tools can improve government agencies, as well as increase public and business confidence. Moreover, the development and implementation of a national platform for predictive analytics of corruption risks will create an integrated system that will not only use current data but also predict possible threats, thus improving the quality of public procurement management.

Prospects for further research include an in-depth analysis of the relationship between social data and economic indicators, as well as expanding the use of big data technologies and neural network algorithms. It is necessary to continue researching the impact of tenderers' behaviour and public perception of corruption risks.

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Conflict of interest

None.

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Моделювання ризиків як спосіб діагностики корупції в системі закупівель: практика та законодавство

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Анотація. Дослідження мало на меті проаналізувати методи моделювання ризиків для діагностики та запобігання корупції у державних закупівлях. Методи дослідження передбачали аналіз чинного законодавства Казахстану у сфері державних закупівель та поглиблене вивчення кейсів, які ілюструють реальний досвід впровадження методів діагностики корупції у цій сфері. У контексті посилення боротьби з корупцією в Казахстані наголошено на державних і муніципальних системах закупівель. Одним із методів діагностики корупційних ризиків у таких системах є моделювання ризиків, яке допомагає виявити потенційні недоліки та зловживання в процесі проведення тендерів та закупівель. У дослідженні визначено основні фактори, що сприяють корупції в системі державних закупівель, і запропоновано рекомендації щодо вдосконалення законодавчих та організаційних механізмів для підвищення прозорості та підзвітності тендерного процесу. Дослідження виявило ключові фактори, що сприяють корупції в системі державних закупівель Казахстану, включаючи недостатню прозорість тендерних процедур, відсутність ефективних механізмів контролю та змову між учасниками тендеру. Проведено аналіз чинного законодавства Казахстану у сфері державних закупівель та виявлено нормативні прогалини, які перешкоджають запобіганню корупції. Запропоновано рекомендації щодо вдосконалення правового регулювання з урахуванням міжнародного досвіду та стандартів. Ключовий висновок полягає в тому, що моделювання ризиків набуває суттєвого значення в боротьбі з корупцією, оскільки дозволяє заздалегідь прогнозувати та усувати можливі загрози, тим самим підвищуючи ефективність системи державних закупівель. Практичне застосування запропонованих методологічних підходів, інтеграція соціальних даних та сучасних технологій, таких як штучний інтелект, у моніторинг державних закупівель відкриває можливості для підвищення прозорості та ефективності антикорупційних механізмів

Ключові слова: контроль відповідності; засоби цифрового аудиту; запобігання шахрайству; ефективність контролю; прозорість

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Constitutional and legal regulation of economic development in the countries of Central Asia

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Abstract. The problem of bringing the countries of Central Asia closer to socially oriented market economic relations is primarily connected with the need to create qualitatively new legal support for such relations. The aim of the article was to improve the existing theoretical provisions on constitutional and legal regulation of economic development within the Central Asian region. In the process of the research, the theoretical and methodological foundations of legal support of economic development in the countries of Central Asia were analysed. The main results of the research were the definition of the available approaches to the interpretation of the definitions of "constitutional-legal regulation", "economic constitution", "economic relations", "foreign policy". It was found that the factors influencing the development of economic relations in Central Asia are, in particular, the slow pace of legislative development, inadequate provision of socio-economic rights of citizens and low level of trust in Central Asian countries by the international community. A comparative analysis of the main provisions regulating economic relations in the constitutions of Central Asian countries revealed similarities in the constitutional norms related to economic values. The existing authoritarian governance mechanisms and the lack of a unified economic strategy directly influence constitutional changes in the field of economic development in Central Asia. The experience of legal support for economic relations and foreign policy in these countries

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highlights the risks that the economies of Central Asia face in terms of legal support. The main issues in constitutional and legal regulation in these countries include the limited legislative recognition of all possible economic rights and the absence of an effective system for implementing the economic foundations established in the Constitution. To address these issues, large-scale reforms, including constitutional reforms, are necessary in the countries of Central Asia. The findings of this study may be considered when determining the future strategy for the development of constitutional and legal support in these countries

Keywords: legitimate state; regional progress; social benefits; legislative regulation; geopolitical environment; pseudo-constitutionalism

Introduction

In the context of globalisation, the influence of the legal system of any state on its economy becomes evident, which is primarily manifested in the enshrinement in the Basic Law of the relevant economic principles and democratic values and ideas. The countries of Central Asia are no exception in this case, the development of constitutional legislation of which has seen some minor but important changes in this context. Non-observance, violation or neglect of the established socio-economic foundations or lack of proper legal regulation of the relevant relations lead to destabilisation of the social situation in the state and permanent economic crises. It is the measures of constitutional-legal regulation that become important here. Problematic issues of formation and development of the constitutional-legal foundation of the Central Asian states need careful analysis, and establishment of common features and differences on the verge of constitutional practice and theory, taking into account the experience of the formation of constitutionalism in different periods. The solution of the above issues necessitates scientific and practical argumentation of mechanisms of effective constitutional and legal regulation of economic development of the Central Asian countries in the conditions of destabilisation of the socio-economic sphere, which is associated, in particular, with both the consequences of COVID-19 and the war in Ukraine. At the same time, during the 2000s there were no systematic discussions in the sphere of legal regulation of economic development of the Central Asian countries, which indicates not only the need for action on the part of the legislator, but also the need for relevant scientific research.

Analysing the theory of constitutional norms, A. Ashraf (2022) noted that in practice the Constitution is always a constantly evolving legal project. This may hinder the functioning of constitutionalism and indicates the impossibility of permanence and stability. At the same time, proponents of pragmatism see the Constitution as one that is "designed to operate over many centuries and to be adaptable to different crises". P.C. Caldwell (2022), in an analysis of the concept of economic constitution and its legal implications, emphasised the ongoing tension between the Constitution, democracy, and the economy. The Constitution establishes the framework and values of governance, ensuring freedom of choice that also influences economic conditions. At the same time, the prevailing economic system directly affects the political structure, making the polity effectively dependent on that system.

S.F.H. Ollick (2022), while examining constitutionalism and economics in Africa, pointed out that though the constitutional establishment of economic principles may indicate a strong belief in their validity and soundness, the questionable significance of such a position for economic development must be set against potential legal constraints in response to new world challenges. It should also be noted here that Y. Tian (2022), while studying the constitutional division of labour, observed that economic reforms establish evolutionary positions in constitutional interpretation, and the practices and needs of such reforms form the basis for interpretation. Economic reforms introduce a market economy system, reconstruct the property structure and division of labour system, and change the constitutional space (Polishchuk, 2024). As M.A. Blackwood (2021) has pointed out in her study of historical issues in Central Asia, the Central Asian region is a challenging environment for democracy promotion because political elites retain significant control over the region's economy, Central Asian countries have varying degrees of market reform, and corruption remains widespread.

In examining the effects of globalisation on Central Asia, A.M. Figueroa García and T. Gélvez Rubio (2022) highlighted that after the Soviet Union's collapse, the five newly independent states of Central Asia began working on establishing the rule of law and enhancing state capacity. Despite the unique characteristics of each country, autocratic political systems have remained a unifying feature. As V. Ozawa *et al.* (2024) observed in their study of Central Asia's political economy of education, efforts by the region's countries to advance nationalist and neoliberal ideologies have been slow, mainly due to the ambiguous distribution of resources and power, which has led to the marginalisation of minorities and increased socio-economic disparities. K. Singha and M.A. Singh (2022), in their analysis of political stability and its economic implications, concluded that state development must be paired with effective governance and political stability to foster the rule of law.

The authors did not explore the issue of constitutional recognition of core, unchanging economic values. They also did not address the relationship between the Constitution and the country's economic framework. The constitutional limitations on rights that should be implemented in specific cases were not considered. Additionally, the role of the autocratic governance model in shaping constitutional and economic law remains unresolved. The influence of market economies and the necessity for societal democratisation on constitutional amendments in Central Asia also requires further investigation. Therefore, the objective of this study was to explore the nature, legal foundations, and unique aspects of constitutional and legal regulation of economic development and economic relations in the Central Asian countries, specifically focusing on Kazakhstan, Uzbekistan, Tajikistan, Kyrgyzstan, and Turkmenistan.

Materials and methods

The paper makes a transition from theoretical to practical research of the issue of improving constitutional and legal regulation of the economic development of Central Asian countries. The study began with the analysis of theoretical

and methodological foundations of law on the essence and meaning of constitutional-legal regulation of economic development in the countries of Central Asia, methods of legal understanding regarding the legal concept and meaning of public administration in the sphere of economic development, the dialectical method was used. Among other things, the conceptual and categorical apparatus of the research was revealed, and the legal nature and content of the concepts of "constitutional-legal regulation", "economic constitution", "economic relations", "foreign policy" were established. It was also possible to identify the features of certain legal phenomena, their legal significance.

The study then examined the essence and scope of socio-economic values within the Constitution as a fundamental legal source. The development of constitutional-legal frameworks in Kazakhstan, Tajikistan, Turkmenistan, Uzbekistan, and Kyrgyzstan, particularly in the realm of economic relations, was explored. A general overview of the key constitutional principles governing socio-economic relations in these Central Asian countries was provided. The study also outlined the distinctive processes influencing constitutional changes related to economic development in the region over the past three decades. Furthermore, the legal support for economic relations and foreign policy in Central Asian nations was assessed. The research highlighted the main approaches for evaluating the legal significance of economic constitutions, conducted a comparative analysis of key provisions regulating economic relations in the Central Asian countries, and examined the experience of economic relations between them.

The study used a set of methods that allow for an in-depth analysis of the constitutional and legal regulation of economic processes in Central Asian countries and identifies the relationship between legal norms and economic development. The formal legal method provided an analysis of the text of constitutional norms that define the foundations of economic policy, their structure and relevance to modern challenges. The comparative legal method was used to compare economic rights and mechanisms for their realisation in different countries, which allowed to identify common features and peculiarities of legal regulation in the region. The method of legal hermeneutics contributed to a deeper understanding of the content of constitutional texts, their impact on economic policy and their significance in the context of regional peculiarities.

Content analysis was used to evaluate the texts of international organisations and key publications, which allowed us to study the frequency and intensity of the use of economic concepts in legal and social contexts. The GDP data of Central Asian countries in recent years were processed using descriptive statistics, which enabled the visualisation of economic indicators and the identification of trends. The use of case studies made it possible to analyse in detail successful examples of economic reforms and problematic cases that affect regional development.

The scientific basis of the study includes quantitative and qualitative approaches, which allowed us to combine the analysis of statistical data with the interpretation of legal norms. The sociological approach helped to reveal the impact of legal norms on social processes, including their role in ensuring social stability and trust in governments. The anthropological approach helped to study the cultural and social factors that influence the formation of economic rights and mechanisms for their realisation. The historical and legal approach allowed us to take into account the specifics of the development of legal systems in the post-Soviet period, analysing their evolution in the context of modern challenges. This approach allowed for a comprehensive study of the relationship between legal regulation and economic development in the region.

The normative basis of the study is the current constitutions of the Central Asian countries (Constitution of the Republic of Kazakhstan (1995), Constitution of the Republic of Tajikistan (1994), Constitution of the Republic of Uzbekistan (1992), Constitution of Turkmenistan (1992), Constitution of the Kyrgyz Republic (2021), Law of the Republic of Kazakhstan No. 107 "On introducing amendments and additions to the Constitution of the Republic of Kazakhstan" (2022). Each of the studied issues is analysed separately. The study provides general recommendations to improve the understanding and mechanisms for improving the constitutional and legal regulation of economic development in the countries of Central Asia.

Results

Factors affecting the Central Asian economies, their status, and prospects. Central Asian countries play an important role in the geopolitical arena. After all, the political and economic processes taking place here extend to the entire Eurasian continent. Central Asia has been, remains, and will be a springboard for confrontation in the geopolitical context for a long time to come. The reason for this is that Central Asian countries have significant resources (human potential, raw materials), which are necessary for actively developing economies. The economic challenges faced by Central Asian countries during the transition from centralised planning were exacerbated by the collapse of the Soviet Union. This resulted in disruptions to international supply chains, hyperinflation, and the dissolution of the common currency area. Drawing lessons from East Germany and Central Europe, new companies emerged in Central Asia, although privatisation processes remained under tight control. In the second decade following independence, the resource boom, particularly in oil and gas, boosted incomes across the region. This surge in revenues reduced the immediate need for further economic reforms, as higher state income alleviated fiscal pressures. However, the third decade proved to be more complex, as the experiences of each Central Asian country varied. While economic output increased across all five countries, the gross domestic product (GDP) remained highly volatile from 2014 to 2019, primarily due to fluctuations in oil prices and exchange rates (Pomfret, 2021).

The COVID-19 pandemic of 2020-2021 significantly impacted Central Asia, prompting regional governments to reassess their governance structures. In Turkmenistan, Kazakhstan, and Uzbekistan, there has been a shift towards a new balance of power, emphasising greater accountability of the government and parliament in socio-economic reforms. Conversely, Tajikistan has experienced a centralisation of authority, reinforcing the president's position. Kyrgyzstan, aiming to prevent authoritarian tendencies, has shown a commitment to developing parliamentarism (Toktogazieva, 2024). At the same time, socio-political stability is being affected by institutional changes, which creates challenges for the national development of Central Asian countries. It is important to review the trends in GDP levels across Central Asia in recent years (Table 1).

Table 1. GDP level in Central Asian countries in 2020-2024

Country	2020	2021	2022	2023	2024
Kazakhstan	-2.6%	4.1%	3.3%	4.6%	4.2%
Turkmenistan	-2.9%	4.6%	1.6%	2.5%	2.1%
Uzbekistan	2%	7.4%	5.7%	5.5%	5.5%
Tajikistan	4.4%	9.4%	8%	6.5%	5%
Kyrgyzstan	-7.1%	5.5%	6.3%	3.4%	4.3%

Source: Real GDP growth (2024)

Comparing Central Asia with countries in South and East Asia reveals that Central Asia has a smaller population and lower industrial development, especially when contrasted with the fast-growing economies of China and India. As a result, the cyclical development patterns in Central Asia have a relatively smaller impact on the global ecological scale (Tleuken *et al.*, 2022). Nevertheless, the region is becoming a target for international project finance agreements from large enterprises from Turkey, the United Arab Emirates, Saudi Arabia and Europe. Economic integration is still far from a reality, but timid attempts do exist (Rodríguez *et al.*, 2022). The EU's economic support for Central Asian countries is also strengthening its position in the region. The EU is successfully implementing its strategy within Central Asia despite the presence of other international counterparts. Central Asia and the EU are united by fruitful cooperation in trade in goods. Achieving energy security is the EU's goal, and its strategy works towards pragmatic co-operation with Central Asian countries.

Evidence shows that strong governance is associated with better economic performance – higher economic growth, lower inequality, higher public revenues, more efficient spending, private investment. In contrast, weak governance and corruption reduce public trust in government and institutions. For example, the EU has been actively supporting the modernisation of Kazakhstan's energy sector, including through investments in renewable energy sources, which contributes to the country's economic diversification and energy security (Salgado *et al.*, 2023). Uzbekistan is another example where good governance has contributed to significant economic achievements through cooperation with the EU. Initiatives such as the Sustainable Development Goals (SDGs) project have improved infrastructure and attracted private investment in the transportation system. At the same time, weak governance and corruption have negatively affected the economic development of other countries in the region. For example, in Tajikistan, high levels of corruption in government structures undermine trust in the government, which reduces foreign direct investment and hinders economic growth. Similarly, in Turkmenistan, where power is centralised and transparency of government decisions is low, economic performance remains poor despite its significant natural resources.

Central Asian states are not passive puppets of foreign partners. Since independence, in various gradations, governments in Central Asia have adopted authoritarian regimes. Therefore, in turn, the leaders of the states in Central Asia are increasingly less encouraging of the Western world's efforts to promote democratic principles, officially resentful, perceiving Western actions as blackmail through economic aid, "exchanging" it for improved legal status of citizens and democratic change (Peyrouse, 2022). Central Asian countries occupy an important strategic position on the planet and possess rich natural resources. The constitutions of the Central Asian countries declare the goal of building democratic states. But, by all political signs, the current regimes of the Central Asian countries are not democratic.

The essence of the economic constitution and its importance for the economic development of the state. Economic development and improved economic well-being is a consequence of the conscious application of the rule of law (Wa-Kyendo & Kemboi, 2021). The law has an unambiguous effect in creating clarity and expectation of economic activities. It follows that the development of the economy depends on the guarantee of legal security, for otherwise there is no proper support and no basis for the economy at all. If the Constitution does not protect social and economic rights, the legitimacy of the state will suffer. Representation of governing institutions, freedom of association and expression, primacy of law, independence of the judiciary, incorruptible law enforcement agencies, transparency of decisions, responsive government and public institutions, sustainable multifaceted human development, protection of the most vulnerable, effectiveness of institutions, accountability, and responsibility to the people are, among others, key elements of the concept of a constitution (Ollick, 2022).

Norms gain respect and loyalty because they are subject to political, social and intellectual conditions. They are arbitrary because they are only one of many possible ways to interpret constitutional texts and principles. At the same time, these norms are constitutional because they embody values that come directly from the constitution. It should be noted that fewer constitutional gaps and trust in the government contribute, in the absence of other circumstances, to better economic performance in the state, which is reflected in an increase in the GDP level of the country concerned (Ashraf, 2022). This is the case for low and below average economies. Such rules are in place in democratic states. At that time, an autocratic regime of governance has a high probability of negative consequences of legislative inaccuracies, while the level of economy in such countries can be high. From an economic efficiency perspective, it is not desirable for states to include in their constitutions economic guarantees that are difficult or even impossible to implement in practice, as it is not only necessary to provide constitutional rules that affect economic outcomes, but also to minimise the existence of potential gaps that may not be the best for the effectiveness of the constitutional commitment system (Kampourakis, 2021).

The issue of the debate around the economic constitution points to utilitarianism as the basis for the possibility of economic depoliticisation. The formation of a flexible and practical draft of this normative requires a similar practical application. International society actually speaks of three "generations" of rights. First generation rights are political and civil, negative rights. Second-generation rights involve

social and economic obligations of the government and are often positive rights. Finally, third-generation rights are illustrated by the right to a healthy and clean environment and are referred to as "green" rights of economic order in a democratic polity (Joerges, 2022). Constitutions, firstly, act as a condition for markets and the economy as a whole: they are, in most cases, critical preconditions for economic development through the presumptive laws they create and the protection they offer for property and capital. Second, constitutions act as market and economic enablers. They reduce transaction costs, for example. And third, constitutions act as a catalyst for economic relations, for example by increasing mutual trust. In 2020, the era of worn-out constitutional norms has begun (Voermans, 2023). To eliminate the threats, it is necessary to codify constitutional norms, that is, to realise their content in law. After all, norms can be protected indirectly rather than directly.

The complex evolution of constitutionality clarifies the truth about the level of economic development that can be expected when the legal foundations in a state are imperfect. A positive transformation of the rule of law is important to ensure a stable link between resource allocation and legal institutions. Constitutions can protect against discrimination and serve as a basis for achieving greater equality in social, economic, and political life. Most constitutions guarantee equal access to primary education (59%) and prohibit discrimination on this basis (58%). To a lesser extent, however, access to health care (20%), equal employment rights (15%), the right to hold a position in the legislature (4%), and the right to vote (4%) are guaranteed. Constitutions adopted after 1990 are much more likely to protect equal rights, and 25% of them restrict political participation based on socioeconomic characteristics (Cassola *et al.*, 2016).

The essence of constitutionalism stipulates the need for government restraint. Fundamental rights are based on positive obligations, and the latter cannot go beyond constitutionalism. Fairness is crucial in accessing the resources of the society, also called "social goods". It is this indicator that determines the fairness of the entire state system. The stability of the economy is influenced by the sustainability of the environment, the availability of own production, the distribution of resources and their consumption. All rights must be seen as rights that give rise to a cluster of duties: to respect, to protect and to fulfil. The duty to fulfil is the most complex, especially when framed as a duty of progressive fulfilment while using the maximum available resources. The concept of "economic constitution" combines two socio-legal institutions – the market economy and the constitution. Economic activity is both controlled by the state and is its foundation (Caldwell, 2022). Unambiguously linked to the process of establishing the rule of law and constitutionalism are decisions about who and how to clarify the provisions of constitutions if disputes arise. The constitution is a basic element in the formation of a country. Because the interests and wishes of the people and the Basic Law are the highest form of law. The truth is that there is no unified Central Asia, and not only the Central Asian states – Uzbekistan, Kyrgyzstan, Turkmenistan Tajikistan and Kazakhstan – have significant differences, but each of them demonstrates important internal differences.

The Constitution of the Republic of Uzbekistan (1992) affirms the right of every individual to freely develop their personality (Article 21) and guarantees the right to work, equal employment opportunities, and the right to form trade unions to defend citizens' economic rights (Article 73). Overall, Uzbekistan's legal framework emphasises social stability, with a more restricted approach to economic freedom, which in turn affects the growth of private enterprise. In contrast, the Constitution of the Kyrgyz Republic (2021) grants broader economic rights, such as the right to private property and its protection (Article 19), and ensures the freedom to engage in economic activity (Article 41). Additionally, it includes provisions for social security, including the right to free medical care (Article 39). These provisions reflect a focus on providing equal opportunities for all citizens through the expansion of social infrastructure and the public sector.

The Constitution of the Republic of Kazakhstan (1995) also proclaims the right of citizens to work and social security (Article 24), but its emphasis is more on stimulating economic activity through government initiatives and investment in infrastructure. In Constitution of Turkmenistan (1992) guarantees the right to housing (Article 22) and the protection of economic rights, but this right is limited by state control, which reduces opportunities for entrepreneurs and citizens to engage in private business. The Constitution of the Republic of Tajikistan (1994), while containing provisions on human rights and social security, does not provide clear mechanisms for the realisation of economic rights in a highly centralised government.

The mechanisms of nation development within Central Asia are hampered by the lack of significant movements towards real independence and, in some aspects, statehood. As a result, the political leaders of these countries have to take into account the complex interweaving of values that exist in Central Asia and have emerged historically and by borrowing from the West. Therefore, Central Asia is developing co-operation with the EU in particular. So far, the net economic returns from the EU in Central Asia have been small, but the EU remains one of Central Asia's largest trading partners. Some counterparts with the EU have strong performance in selected Central Asian countries and outpace China's economic presence in the region (Pomfret, 2022). Although the EU has not previously focused on developing economic relations with Central Asia, much of the EU's strategy has been centred exclusively on Kazakhstan.

Although Central Asia's relationship with the European Union has not led to substantial economic growth, it plays a crucial role in the region's overall development. The EU remains one of Central Asia's primary trading partners, aiding the region's integration into global trade networks. For instance, the Enhanced Partnership and Co-operation Agreement between the European Union and the Republic of Kazakhstan (2020) has notably strengthened economic ties with Kazakhstan, providing access to European investment, technology, and expertise. Intensification of economic ties with the EU is gradually leading to changes in the legal sphere, especially in the context of implementing the principles of the rule of law. The European Union actively supports reforms in Central Asian countries related to democratisation, human rights and the rule of law, and promotes the development of institutions that ensure transparency and accountability of governments. In particular, countries such as Kazakhstan have seen changes in their constitutions and national legal systems that provide better protection of economic rights. Constitutional changes aimed at ensuring economic freedoms have resulted from this cooperation. For

example, the Constitution of Kazakhstan was amended to expand the rights of citizens to private property and freedom of entrepreneurship, which is a direct result of EU pressure to reform the economic and legal environment.

Kyrgyzstan's constitution was amended after the country's partnership with the EU to provide for greater economic freedom, including the right to protect investments and economic activity. These changes have not only strengthened the economy, but also introduced more transparent governance mechanisms, which are important elements for the development of the rule of law. In other countries, however, such as Turkmenistan and Tajikistan, while the EU has also promoted some economic reforms, progress in strengthening democratic principles and human rights has been limited, suggesting that economic ties with Europe do not always translate directly into changes in political systems.

By rehabilitating their economic and political systems, Central Asian countries have managed to maintain relative stability, regional reconciliation and to begin to form new democratic societies despite persistent societal challenges. However, economic contradictions and the suspension of democratisation have increased the existing unequal distribution of resources and power, which leads to a wide gradation of restrictions on citizens' opportunities and tensions between different segments of society in Central Asia (Ozawa *et al.*, 2024). It follows that it is relevant for Central Asian countries to introduce global international economic integration in order to develop national legal and economic associations.

Economic rights comprise both the totality of constitutional and legal norms that ensure the relevant rights and real human rights, such as the right to entrepreneurial activity, the right to property. The system of economic rights includes a set of individual economic benefits guaranteed by the state. The effective realisation of economic rights depends on the proper activity of the state authorities, the economic state and the state of democracy, the culture of law and the general legal development of society. For this purpose, it is necessary to consider the following basic economic principles stipulated by the constitutions of Central Asian states (Table 2).

Table 2. Main economic rights and values enshrined in the constitutions of Central Asian states

No.	Country	Joint rights	Differences
1	Kyrgyzstan	➨ The right to own property and the protection of property rights; ➨ Human rights and freedoms are held in high esteem, with a prohibition on restrictions of civil and human rights; ➨ The right to access information; ➨ The right to participate in public administration by voting and being elected; ➨ The right to receive an education; ➨ Equal rights for all individuals; ➨ The right to personal privacy; ➨ The prohibition of discrimination; ➨ The right to housing; ➨ The right to associate freely; ➨ The right to form political parties and public organisations; ➨ The right to judicial protection; ➨ The right to nationality and its protection; ➨ The right to personal freedom and the freedom to move; ➨ Freedom of expression; ➨ The right to engage in economic activities freely; ➨ The right to work, favourable working conditions, and the freedom to choose a profession; ➨ The right to rest and leisure; ➨ The right to live in a safe environment; ➨ The right to land, natural resources, airspace, and water; ➨ Support for the advancement of science.	1. The State strives to foster peaceful coexistence and mutually beneficial cooperation with other countries, working towards resolving global and regional issues amicably (Art. 11). 2. The State ensures the protection of investments and the parties involved in investment activities (Article 16). 3. Every individual has the right to economic independence and freedom (Article 41). 4. The State is committed to implementing a youth policy that focuses on creating favorable conditions for the education and employment of young people, as well as supporting young families (Art. 47). 5. The State guarantees the adoption of laws and other legal instruments that safeguard human rights, freedoms, and responsibilities (Art. 62).
2	Tajikistan		No special provisions are envisaged
3	Uzbekistan		1. Every individual is entitled to freely develop their personality (Art. 21). 2. Every person has the right, both individually and collectively, to submit requests, suggestions, and grievances (Article 40). 3. The work of teachers is acknowledged as fundamental to the development of society and the State (Article 52). 4. Trade unions represent and protect the social and economic rights and interests of workers (Art. 73).
4	Kazakhstan		No special provisions are envisaged
5	Turkmenistan		1. Voluntary social insurance, the establishment of complementary forms of social security and charity are encouraged (art. 28). 2. (2) Every citizen shall have the right to State support in obtaining comfortable housing and in the construction of individual housing (art. 22).

Source: compiled by the author based on Constitution of the Republic of Kazakhstan (1995), Constitution of the Republic of Tajikistan (1994), Constitution of the Republic of Uzbekistan (1992), Constitution of Turkmenistan (1992), Constitution of the Kyrgyz Republic (2021)

The table shows that, it is not enough to enshrine economic ideas and principles in the Basic Law, it is necessary to provide a mechanism for their implementation, and it is advisable to adopt independent constitutional laws. The analysed data shows that the constitutions of Central Asian states do not include provisions clearly defining macro- and microeconomic processes. Therefore, appropriate legal measures should be taken to counteract the forthcoming economic crises.

Characteristics of peculiarities of constitutional-legal regulation of economic relations of Central Asian states. It should be noted that constitutional provisions should be recognised as binding. They stipulate all normative information confirming the essence of infra-constitutional law. However, economic dogmas are dependent on constitutional ones, since the implementation of economic law cannot stipulate solutions different from the guidelines provided by constitutional norms (Salgado *et al.*, 2023). Since 1991, due to independence, the Central Asian states (Tajikistan, Uzbekistan, Kyrgyzstan, Turkmenistan, and Kazakhstan) have gained importance as regional and international actors. They joined the United Nations (UN).

In Central Asian countries, with the exception of Uzbekistan, there is a tendency to amend constitutions to protect fundamental rights. In June 2022, a referendum was held in Kazakhstan, which approved 56 amendments to 33 articles of the Constitution. The amendments addressed such aspects as strengthening the role of parliament, limiting the powers of the president, and ensuring human rights. For example, Article 44 was amended to strengthen human rights protection mechanisms (Law of the Republic…, 2022). In 2016, Tajikistan held a referendum that approved constitutional amendments allowing the incumbent president to run for a new term without restrictions (Constitution of the…, 1994; Referendum in Tajikistan…, 2016). The amendments affected the articles regulating the term of office of the president and his rights. These examples demonstrate how constitutional changes in Central Asia affect the protection of fundamental rights and the political structure of states. The constitutional framework has shifted from monism to dualism in terms of the relationship between domestic and international law, which has hindered the protection of human rights through international bodies, including the United Nations Human Rights Committee (UNHRC) (Toktogazieva, 2024). Aligning constitutional reforms with the support of international organisations is crucial, as constitutional provisions influence all areas of state activity, including political processes, civil rights, and fundamental human freedoms. Violations in these areas can directly undermine economic performance and erode public trust in the government.

The constitutional order of the Central Asian countries combines traditional, Soviet and modernist features. The constitutions of Central Asian countries combine traditional Soviet elements with modern democratic features. In Constitution of the Republic of Kazakhstan (1995) grants significant powers to the President, reflecting Soviet centralisation, while also ensuring citizens' rights to participate in elections (Article 41). Constitution of the Republic of Uzbekistan (1992) guarantees the right to work (Article 48) and provides broad presidential powers (Article 95), showing Soviet-era influence alongside modern rights. Constitution of the Republic of Tajikistan (1994) ensures the right to work (Article 19) but strengthens presidential authority (Article 65), reflecting authoritarian tendencies. These constitutions maintain centralised power while incorporating democratic principles.

The elites of Central Asian countries in the conditions of democratic transit have increasingly started to use informal political institutions. Analysis and constitutional commentary in Central Asia remain uncritical and doctrinaire. Constitutionalist discourse in Central Asia is a story of "a rejection of the Soviet past and a simultaneous push from it and a pull towards the embrace of the globalised present". At the same time, there are signs of pseudo-constitutionalism in the Central Asian countries. In Central Asia, constitutionalist discourse reflects both a rejection of the Soviet past and an attempt to embrace modernity, but with signs of pseudo-constitutionalism. For example, In Constitution of the Republic of Kazakhstan (1995) granted significant presidential powers, which have been used to centralise authority, undermining democratic institutions despite the formal inclusion of rights and freedoms. In Constitution of the Republic of Uzbekistan (1992) amendments aimed to introduce reforms but maintained the centralisation of power in the hands of the president, limiting real political pluralism.

Internationally, the region is presented as one where the population has real political participation. However, to a greater extent, pseudo-constitutionalism turns out to be a consequence of international pressure on democratisation processes. A prime example is Kazakhstan, where international calls for democratic reforms influenced the 2017 constitutional amendments. These amendments aimed to reduce the concentration of power in the hands of the president and strengthen the role of the parliament, ostensibly in response to the international community's concerns. However, in practice, these changes did little to challenge the entrenched presidential power. As stated in the 2017 amendment, "The powers of the President shall be transferred to the Government, Parliament, and the Constitutional Court, but the President remains the head of state and the main force in the system of government" (Law of the Republic…, 2022). This position, although it is connected with the need to convince the international community of the truthfulness of the commitments of the Central Asian states in order to attract investments and receive financial grants, is dangerous in its autocratic character. In reality, there are repeated cases of violation of economic rights of citizens and legal entities in Central Asian countries (Pistan, 2019).

Since independence, Kazakhstan has pursued a diverse foreign policy. Kazakhstan has attracted foreign investment and created positive diplomatic relations while maintaining its isolation (Vanderhill *et al.*, 2020). Kazakhstan is focused on the globalising world economy and its own participation, state-owned natural resources and tactics to develop innovative industries. Kazakhstan's foreign policy has been shaped by its Constitution, which emphasises peace, cooperation, and mutual respect in Article 6, guiding the country toward positive diplomatic relations. Article 44, which states that "The President shall promote and support economic reforms, attract foreign investments, and ensure the country's economic development", reflects the country's focus on attracting foreign investment and utilising its natural resources for economic growth (Constitution of the…, 1995). These constitutional changes enabled Kazakhstan to modernise its economy while strengthening global partnerships.

Turkmenistan aims to foster a conducive environment for foreign investment by establishing plans and programmes for the country's future socio-economic development, along with investments in its legal framework. As a developing nation with a growing economy and legal infrastructure, Turkmenistan faces heightened risks (Kepbanov *et al.*, 2022). For example, Article 6 of the Constitution of Turkmenistan (1992) states: "The Republic of Turkmenistan shall pursue a policy of promoting economic development, enhancing the living standards of its people, and attracting

foreign investments for the socio-economic development of the country". This provision highlights the commitment to attracting foreign investment as a key factor in the country's economic strategy.

Turkmenistan's Constitution enshrines the protection of private property and guarantees the rights of investors. According to Article 29, "The property rights of individuals and legal entities, including foreign investors, shall be protected by the state," providing legal assurances to foreign investors and facilitating their confidence in the country's legal framework.

Tajikistan is one of the Central Asian states sharing common ethnic and cultural values with Iran. Tajikistan's economy is mainly dependent on remittances, metal processing, agriculture and minerals. Since the end of the civil war, the country has struggled to implement reforms and build a privatised economy. Economic growth in Tajikistan is low, but it is heavily dependent on the drug trade and remittances (Karimi and Odlu, 2022). Article 2 of the Constitution of the Republic of Tajikistan (1994) states: "The Republic of Tajikistan is a democratic, law-governed, secular, and social state, where the highest goal is the establishment of a free, just, and legal society". This provision underpins the state's commitment to building an economy based on legal principles and governance, which, in theory, should promote the development of private enterprise and reduce dependence on illicit activities like the drug trade. Article 14 emphasises the importance of economic development: "The state encourages the creation of favorable conditions for private ownership, free economic activity, and entrepreneurship". This provision suggests a constitutional commitment to privatisation and creating an environment that supports private business, although the implementation of these policies has faced challenges, especially in the context of post-civil war reconstruction.

Uzbekistan is also pursuing an active foreign policy, trying to strengthen, firstly, relations with the states within Central Asia, which have been in tension for almost twenty years. Due to industrialisation and the inflow of foreign direct investment, Uzbekistan's position in international indices has grown. The structure of Uzbekistan's foreign trade turnover can have a favourable impact on export performance (in particular exports of finished goods) and the competitiveness of the country's economy (Talipova *et al.*, 2022). The Constitution of the Republic of Uzbekistan (1992) emphasises the importance of both internal economic development and external relations. Article 6 of the Constitution states: "The Republic of Uzbekistan ensures the freedom of economic activity and guarantees the protection of the rights of citizens to engage in entrepreneurship and other economic activities". This provision creates a legal foundation for promoting investment and foreign trade by ensuring that private ownership and entrepreneurial activities are protected and encouraged. Moreover, Article 10 highlights the significance of foreign relations, noting: "The Republic of Uzbekistan conducts a peaceful foreign policy, aimed at strengthening friendship and cooperation with all countries, ensuring the country's security, and contributing to the establishment of peace and stability in the world". This Article has allowed Uzbekistan to focus on regional cooperation, particularly in Central Asia, and actively seek partnerships with other nations, improving its economic competitiveness and trade performance.

Kyrgyzstan, in turn, in all spheres of the national economy, seeks cooperation. Kyrgyzstan's foreign policy is characterised by multidimensionality or multi-vectorality, focusing on consolidating flexible and multifaceted external relations with neighbouring states and regional players (Tobakalov, 2020). After all, after the collapse of the former Soviet Union, like other transition economies, Kyrgyzstan experienced great economic turmoil. It is still felt that Kyrgyzstan is heading towards a slow recovery. In addition, there is a high level of corruption in each of the countries. However, the concept of the rule of law does not include corruption risks. Article 3 of Constitution of the Republic of Kazakhstan (1995) establishes the country's sovereignty, laying the foundation for a multi-vector foreign policy focused on flexible external relations. Article 15 emphasises the rule of law, requiring that all laws and acts comply with the Constitution. While these provisions promote cooperation and legal governance, Kyrgyzstan continues to struggle with corruption and weak institutions, hindering effective implementation of reforms and limiting the country's economic recovery.

Discussion

The internal order of the Central Asian states is noticeably reflected in their policies. The region needs not only the expansion of international cooperation, but also the unification of efforts, approaches, and vectors of development among the Central Asian countries. Central Asia is on the threshold of transformations, and it is difficult to predict the vector of development. The development of modern technologies, new forms of government and legal institutions cannot but be accompanied by economic development of any state. However, Y.S. Lee (2019) believes that economic development is associated with less developed countries, although he notes that the concept of economic development can also be relevant for assessing economic problems in developed countries. Economic relations give rise to the need for their constitutional and legal regulation in order to preserve the stability of the economy and avoid conflicts between the subjects of these relations. I. Kampourakis (2021), who noted that the development of democratic structures has a direct impact on social power within economic relations. In any case, the basis of state governance should be people's power. This guarantees the real social and economic interests of citizens and companies. Therefore, almost all constitutions contain a provision that all state resources belong to the people. Meanwhile, E. Dávid-Barrett (2023) pointed out that in case of seizure of power by a narrow circle of individuals, the weighty resources of the economy will secure the interests of these individuals and not the public. In order to avoid such cases, there should be appropriate autonomous state institutions that will protect the country from the seizure of power.

A constitution that favours a particular economic system based on a plan or market removes the sovereignty of the government (Shkuratenko *et al.*, 2023). According to P.C. Caldwell (2022) the tension between the constitution and the economy grows deeper every year, for each can pose threats to the other, not just a premise. In terms of economics as a dynamic system – the constitution can threaten to interfere with economic activity. Economic rules are affected by limiting the right of democracy. At the same time, the author did not take into account that the constitution by itself without the existence of economic relations in the

state does not have such legal significance. Since the constitution should enshrine the existing economic order and not the probable one. In the matter of respect for human and civil rights, the constitution should provide for freedom and choice of labour. Such a concept allows for a multi-directional economy in the state and the generation of revenue from sources of different origins. Although Y. Tian (2022) believed that division of labour is one of the economic values that should be enshrined in constitutions. The norm of division of labour should pursue three objectives: sharing, innovation and efficiency.

As R. Pomfret (2021) rightly pointed out, the absence of substantial reforms in Central Asia during the 1990s, along with the rise of autocratic regimes and the concentration of wealth among a small elite, created major obstacles to the establishment of a viable market economy. While the availability of resources and rising income have provided some benefits, these factors have also made systemic reforms challenging. However, a new generation of leaders, more familiar with market economies and the globalised world, may help facilitate necessary reforms. Additionally, the development of Central Asian economies will benefit not only from supporting market relations, particularly with the EU, but also from aligning with EU legal values as outlined in relevant regulations. M. Shankar Bharti (2023) highlighted the substantial influence of trade with the EU on Central Asian economies, noting that all countries in the region are involved in EU export and import activities. The EU relies heavily on imports of oil and gas from Central Asia to fulfill its energy demands.

Regarding the implementation of international norms, there are still several unresolved problems (rule of law, recognition of corruption, real freedom of the press, gender inequality, independence of the judiciary), despite the fact that Central Asian countries have acceded to all major international legal mechanisms. Most of these problems are at least partly related to the Soviet past. The above-mentioned problems come precisely because of the imperfection of constitutional and legal provision, which is the basis of all legislation of the states. E. Garbuzarova (2021) argued that in 1991, with the beginning of independence, the Central Asian countries started state-building, in the process of which the Central Asian countries paid much attention to constitutions, in particular, to the consolidation of the separation of powers between the branches of government. To support and strengthen their own legitimacy, the presidents of the Central Asian countries have been amending the basic laws. It is worth noting that the Central Asian countries, as young independent countries, have not yet gained enough experience in both state and economic governance (Otar *et al.*, 2024). That is why it is important to gradually and purposefully consolidate new legal institutions, which will lead to the building of a new statehood.

Partner countries need to see not only Central Asia's willingness to cooperate, but also relevant, including legal and regulatory changes aimed at economic development. M. Rodríguez *et al.* (2022) found that after recent economic obstacles related to the crisis caused by the war in Ukraine and the 2020 coronavirus, Central Asia is striving to become a logistics centre connecting Asia with Europe. Mere references to international norms cannot ensure constitutional integrity in any state, for constitutional norms must be real for implementation. S. Toktogazieva (2024) noted the relevant observation that, considering recent changes in Central Asia that impact the role of international law in national constitutional frameworks, there is a limited likelihood that referencing international law will bring about a renewal of the constitutional system.

Constitutions, as the main source of law, should not contain economic restrictions, but, on the contrary, contain a wide range of legal mechanisms for the development of the economy (Baturin & Moroz, 2024). N. Webb Williams and M. Hanson (2022) assumed that legislative restrictive mechanisms are no less effective than administrative regulations. This implies that normative specificity is the main mechanism linking the development of formal regulatory norms to better economic outcomes. Central Asian countries have inherited patriarchal culture and norms, socio-economic situation, limited access to justice, legally uncertain timeframes which have led to a discriminatory legal framework, so no government is able to enforce laws properly. Here, M. Sattorova (2018) highlighted one common feature of all Central Asian constitutions – a remnant of their Soviet past. It is important that completely the countries have not abandoned the position of a strong government.

Central Asia encountered a unique set of challenges that required substantial social, economic, political, and constitutional changes, which were swiftly enacted. This rapid response offers valuable insights into the political-legal frameworks of post-Soviet countries. However, a preliminary comparative analysis of the constitutional provisions in these countries suggests that while they have embarked on a path toward positive state reforms, challenges remain. According to V. Ozawa *et al.* (2024), the political landscape in Central Asia is shaped by the ideology of dominant groups, which often reinforce social inequality. The effectiveness of government is largely determined by how well its activities are regulated and the strength of the rule of law. Since the government makes decisions through its agencies, it plays a crucial role in influencing the region's economic conditions. In turn, V. Alfano (2022) pointed out that supranational institutions try to support investments and political reforms.

Central Asia is important in terms of energy security for many states, which has created the preconditions for transformations in the economic and political dynamics of international relations (Hamidova & Samedova, 2024). Despite the fact that authoritarian regimes in Central Asia create a kind of stability, but create inappropriate socio-economic performance for a long time. As follows from the considerations of A.M. Figueroa García and T. Gélvez Rubio (2022), the permanence of authoritarian regimes in Central Asian countries is also influenced by external factors. States here define their independence and make decisions based on their interactions with other economic actors beyond their borders. In addition, economic changes accompany Central Asian countries, including in emergency situations, as the region is obliged to respond not only to external factors, but also to internal ones. Thus, economic growth in Central Asian countries has stalled quite dramatically since the end of the resource surge in 2014 and during the coronavirus pandemic in 2019, as noted by R. Pomfret (2022). These circumstances led to the need for export distribution.

At the same time, the level of confidence of the international community in the legal regimes and governance in the Central Asian countries also affects the Central Asian economy. After all, regulatory factors, particularly those related to

policies and laws, determine a high probability of risks in the territory of Central Asia. Consequently, H. Ma *et al.* (2020) pointed out that governance institutions and mechanisms in Central Asia remain opaque and uncertain, which becomes a prerequisite for investors' doubts about the fairness of legislation and stability in Central Asian countries. Central Asia is represented by rather determined leaders who use external and internal means of governance to influence international relations. In order to gain political and other preferences from strengthening state legitimacy, the leading figures of Central Asian countries resort to expanding the circle of partners in order to reduce security and economic risks for the region (Kaparbekov *et al.*, 2024). For example, Central Asian countries have started to use hedging instruments to engage with China. This is the view of L.C. Sim and F. Aminjonov (2022).

Constitutional development within Central Asia is influenced by international organisations and institutions, as most Central Asian states regularly participate in various international associations related to constitutional law. Kazakhstan and Kyrgyzstan frequently seek advice from the Venice Commission and the UN Special Rapporteurs on Human Rights, and have amended their constitutions and statutes in response to the views of the Commission and the UN Rapporteurs. After all, if governments lose economic oversight of social consumption, it will definitely have a critical impact on society, therefore, a system of the following procedures should be used in the state: business support, public policy, quality of regulation and rule of law (Munkhuu *et al.*, 2021). The concept of Central Asia as a region should change and provide an order not burdensome normatively and easier than regionalism. In this respect, F.C. Buranelli (2021) observed that in such a case, it is not a matter of completely eliminating the concept of regionalism, but only avoiding the formality observed in the European space. Such a concept can eliminate illiberal models of government and ensure the levelling of fictitious constitutionalism. To this end, T. Li-Ann (2021) drew attention to the diversity of interpretations of constitutionalism based on the wide range of constitutional transformations in Central Asia, which is related to the peculiarities of the levels of economic development, cultures and religions, and political ideologies.

The main direction of constitutional reforms in Central Asia can be considered to be the change of the form of government to presidential, while the system of checks and balances and separation of powers in the states is still far from perfect. According to K. Diyarbakirlioglu (2020) most of the countries that come from the Soviet Union have recognised the advantage in the powers of the president over the parliament, at the same time, these issues have not been clearly regulated constitutionally. Governance reforms should be adapted to the country and circumstances and their success depends on strong leadership, well-designed laws and regulations, a skilled civil service and better use of technology. Such considerations have been echoed by M. Loughlin (2019). At the same time, both parliament and the president are in one way or another related to the division of social benefits in the state. Such division should proceed primarily from the principles of justice and equality. Defining the essence of these categories, D.T. Mollenkamp (2024), pointed out that equality includes giving all individuals or groups the same access to opportunities, and through fairness the imbalance of the social system is interpreted. Such arguments should be accepted. Meanwhile, the lack of investment and resources leads to a disadvantageous situation in society that limits the legal opportunities of citizens and increases the likelihood of social problems (Gobel & Carvacho, 2023). Socio-economic rights are essentially separated from political and civil rights due to the different subjects, defensibility, ideology, and consequences. This is why S. Fredman (2018) suggested that the distinction should instead establish the legal consequences of all rights through duties: fulfil, protect and respect.

Central Asian states should recognise the need to comply with the requirements of international law, which will contribute to improving their position in relevant indices and rankings and strengthening the region's authority in the international arena. Central Asian countries should also focus on the digitalisation of administrative procedures and other public services related to economic relations, which will reduce corruption. Central Asian governments should expand the economic rights of citizens, companies, and opportunities for investment, business development and entrepreneurship within the framework of the constitutional framework. The likelihood of a single scenario of economic development for all states in the region is not very realistic, as the countries differ both in the degree of stability of regimes and the specifics of political culture. The ongoing global crisis and the presence of strong neighbours slow down and dilute the progressive development and modernisation of the Central Asian countries. Thus, Central Asia is entering a new geostrategic and historical phase, where new risks and challenges for the economy of the states will be manifested, which will clearly affect their constitutional and legal support.

Conclusions

The study's findings indicate that the regulation of economic relations largely hinges on the effective incorporation of fundamental socio-economic values into a nation's constitution. It was observed that the constitutional frameworks of Central Asian countries have been significantly shaped by the Soviet legacy. Additionally, it was established that the Central Asian region holds a strategically important position globally and is endowed with abundant natural resources. The economic support provided by EU countries further enhances the region's standing. Furthermore, Central Asia is increasingly becoming a focal point for international project financing from major companies in Turkey, the United Arab Emirates, Saudi Arabia, and Europe.

It is determined that, at the same time, the current regimes of Central Asian countries are not democratic by all political features. Constitutions are political and economic documents. Constitutions act as a condition for markets and economy, are critical prerequisites for economic development, and act as a catalyst for economic relations. However, it is not enough to enshrine economic ideas and principles in the Basic Law, it is necessary to provide a mechanism for their implementation, and it is advisable to adopt independent constitutional laws. It has been determined that Central Asian countries must acknowledge the importance of adhering to international law standards, as this will help improve their standings in various indices and ratings, while also enhancing the region's influence on the global stage. In addition, the economic rights of citizens, companies, and opportunities for investment, business development and entrepreneurship should be expanded within the constitutional framework. Central Asia needs to unify development

vectors, approaches, and efforts among Central Asian countries, not only to increase international cooperation. Governance reforms must be tailored to the country and circumstances, and their success depends on strong leadership, well-designed laws and regulations, a skilled civil service, and better use of technology. Central Asian economic policy should be based on Central Asian countries' adherence to the criteria of integration of a common economic direction and a common economic and legal stabilisation plan. The necessity of adjusting the existing national constitutions of Central Asia to the real needs of the economy and society is considered.

The findings of study can be utilised in formulating additions and revisions to the constitutions and national laws of Central Asian countries, as well as in shaping state strategies and concepts. However, the scope of the research is confined to examining the economic development of Central Asian nations within the context of constitutional regulation, excluding social and political factors. In the process of the research, new issues have emerged that need to be addressed. It is necessary to continue the study of constitutionalism and constitutional-legal regulation of economic development in the Central Asian countries and to identify the prospects for improving the legislative and practical aspects of economic relations within Central Asia, their problems and solutions.

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Conflict of interest

None.

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Конституційно-правове регулювання економічного розвитку в країнах Центральної Азії

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Анотація. Проблема наближення країн Центральної Азії до соціально орієнтованих ринкових економічних відносин пов'язана, насамперед, із необхідністю створення якісно нового правового забезпечення таких відносин. Метою статті було вдосконалення існуючих теоретичних положень щодо конституційно-правового регулювання економічного розвитку країн Центральної Азії. У процесі дослідження було проаналізовано теоретико-методологічні засади правового забезпечення економічного розвитку в країнах Центральної Азії. Основними результатами дослідження стало визначення наявних підходів до тлумачення дефініцій «конституційно-правове регулювання», «економічна конституція», «економічні відносини», «зовнішньоекономічна політика». Встановлено, що факторами, що впливають на розвиток економічних відносин у Центральній Азії, є, зокрема, повільні темпи розвитку законодавства, неналежне забезпечення соціально-економічних прав громадян та низький рівень довіри до країн Центральної Азії з боку міжнародної спільноти. Порівняльний аналіз основних положень, що регулюють економічні відносини, закріплених у конституціях країн Центральної Азії, підтвердив схожість конституційних норм цих країн у сфері економічних цінностей. Існуючі авторитарні механізми управління та відсутність єдиної економічної стратегії безпосередньо впливають на конституційні зміни у сфері економічного розвитку країн Центральної Азії. Досвід правового забезпечення економічних відносин та зовнішньої політики в країнах Центральної Азії вказує на ризики для економік країн Центральної Азії в контексті правового забезпечення. Основними проблемними питаннями конституційно-правового регулювання в країнах Центральної Азії є обмеженість законодавчого закріплення всіх можливих економічних прав та відсутність ефективної системи реалізації наявних в Основному Законі економічних засад. Для подолання цих проблем необхідне проведення масштабних реформ у країнах Центральної Азії, в тому числі конституційної реформи. Результати дослідження можуть бути враховані при визначенні подальшої стратегії розвитку конституційно-правового забезпечення країн Центральної Азії

Ключові слова: правова держава; регіональний прогрес; соціальні блага; законодавче регулювання; геополітичне середовище

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Legal foundations and emerging trends in the reform of Ukraine's healthcare system

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Abstract. The relevance of the study lies in the need to clarify the organisational and legal basis and current trends in reforming the healthcare system in Ukraine during the war, since the effective functioning of this system is directly related to maintaining the national security of the state. The purpose of the study was to identify current trends in reforming the healthcare system of Ukraine. The research was based on the use of a historical approach and problem analysis, during which such methods as: formal legal, historical legal, and comparative legal were used. The study examined the process of reforming the Ukrainian healthcare system since 2015 and drew attention to the events that had the most significant impact on it. The main findings of the study were the specification of current trends in reforming the healthcare system in Ukraine. The results of the reforms include universal healthcare coverage through the introduction of an effective integrated service delivery model, enhanced human resources to meet the urgent needs of the Ukrainian healthcare system, and ensuring the professional well-being of employees. The introduction of innovations and intensification of international cooperation in the field of medicine contributed to the integration of Ukrainian education and science into the international context, exchange of experience with American and European experts, and access to advanced technologies in the medical field from partners. These trends aimed at improving the quality and accessibility of medical care for all citizens of Ukraine

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can manifest themselves in a significant improvement in the state of the Ukrainian healthcare system. The study also analysed the draft strategy for the development of the healthcare system until 2030 and other regulatory legal acts to clarify state policy in this area. The scientific originality consisted in a comprehensive analysis of the organisational and legal foundations and current trends in reforming the healthcare system of Ukraine in the context of armed conflict, systematisation of changes since 2015, and identification of specific challenges and adaptation mechanisms. The results of the study can be used to compare the Ukrainian healthcare system with such systems in other countries

Keywords: human resources; public service; martial law; physical and psychological injuries; vector of development of medical care

Introduction

Healthcare is a set of state actions in ensuring public access to high-quality medical services in order to preserve and restore their health. In turn, the healthcare system of Ukraine is a certain conglomerate of all state bodies, institutions, and organisations through which the state implements national policy in the field of providing medical services and whose activities are aimed at providing the population of Ukraine with access to qualified medical services. The quality and timeliness of medical care that citizens receive is one of the main criteria for assessing healthcare in a particular state, but in some territories of Ukraine, due to the war and occupation, the population does not have a real opportunity to receive qualified medical care due to the high probability of shelling or the danger that the occupation forces create for medical personnel. Lack of adequate healthcare leads to higher civilian mortality rates and contributes to the spread of infectious diseases, thus creating additional challenges for the health system (Levy & Leaning, 2022). However, the healthcare system of Ukraine is constantly adapting to new challenges associated with the war and new types of injuries that have to be treated. Urgent needs for high-quality medical care of the population and outdated legislative norms that slow down the effective operation of the healthcare system of Ukraine are the main factors determining the vector of its reform for the near future.

Numerous researchers have considered these issues, including Y. Gorodnichenko *et al.* (2022), whose research suggests specific strategies for achieving key goals in Ukraine's recovery, in particular its healthcare system. All strategies are created with the help of expert analysis by leading researchers, each chapter explores different aspects of the reconstruction of Ukraine, determining their interrelation and importance for the overall success of the country. The study also argues for the need for deep modernisation of Ukraine, emphasising that a simple restoration will not be sufficient. In particular, it expresses the belief that Ukraine needs to join the European Union and suggests ways to achieve this goal through systemic reforms in the economy and society. Overall, the study suggests a deep and progressive approach to Ukraine's post-war recovery and development, focusing on systemic reforms and European integration as key elements of this process. Another study conducted by S.O. Kravchenko and V.V. Shpachuk (2022), examines the importance of public health and the role of national policy in this area in Ukraine, focusing on the analysis of the health system in Ukraine, considering the current state policy in this area, and examines its features, problems and challenges that arise in the reform process. The study also considers urgent tasks such as European integration, implementation of modern health standards, protection of national interests and changing needs of society, and identifies the need for changes in the health system to respond to these challenges. The study also identified the areas of healthcare reform in Ukraine.

The study by I. Kurylo (2022) focuses on analysing the dynamics of mortality and life expectancy in Ukraine, in particular, considering complex demographic challenges. It is the indicators of mortality and life expectancy that are one of the criteria for evaluating the effectiveness of the healthcare system of Ukraine. The study analyses the latest trends in mortality and life expectancy, comparing them with similar trends in Russian military aggression and its intensification. Research conducted by E. Quirke *et al.* (2022), describes the situation of healthcare workers in Ukraine due to the military conflict with Russia, facing attacks on healthcare facilities and personnel. The study also reveals the situation of medical personnel in international humanitarian law, emphasising their neutrality in conflict zones. Attention should be paid to the publication by R. Rubin (2022), which emphasises that emergencies can be catalysts for the development of mental health problems. The paper argues for the need to increase the level of information training of citizens for certain critical situations, and considering the needs of vulnerable groups of the population.

In turn, the paper by M.S. Baker *et al.* (2023) is entirely devoted to the introduction of specialised training for medical personnel in Ukraine. The study also highlights the importance of mastering Advanced Trauma Life Support (ATLS) and Point of Care Ultrasound (POCUS), as well as improving patient monitoring during resuscitation, surgery, and blood transfusions. M. Jaroszewicz *et al.* (2022) draw attention to the issue of migration provoked by Russian aggression in Ukraine. The study analyses the situation and provides a comprehensive discussion of the consequences of the influx of refugees, highlighting the reaction of the European Union, the Polish government, and Polish society as a whole. The study by L.L. Lawry *et al.* (2024) was based on highlighting the shortcomings in the system of trauma care in Ukraine. The study identified outdated administrative practices, inefficient communication between patient evacuation stages, limited equipment, insufficient infectious disease control measures, insufficient quality of pre-medical care, and lack of structured trauma response protocols.

In many publications related to the healthcare sector of Ukraine, only aspects that affect or have affected the state of the healthcare system of Ukraine in a certain specific period are outlined, without considering the trends towards its reform that these events created. Among these aspects, it is necessary to highlight the damage and shortcomings of the healthcare system of Ukraine, but it is also necessary to focus on its capabilities for restoration and modernisation, the effectiveness of the existing system, national policy in this area, and the assistance of foreign experts. Therefore, the purpose of the study was to systematise the current

legislative acts, further critical analysis of the organisational and legal foundations of the healthcare system of Ukraine, and trends in its development. The objectives of the study were: to identify the key challenges and problems faced by the healthcare system in Ukraine during the war, and to identify trends in its reform.

Materials and methods

During the study of the organisational and legal foundations and current trends in reforming the healthcare system in Ukraine during the war, a deep and comprehensive analysis of various sources of information was carried out. The main problems that arise in the health system in the context of military operations, such as limited access to medical care, a shortage of qualified medical personnel, and insufficient provision of medical equipment and medicines, were identified through problem analysis. The impact of military operations on the mental and physical health of the population and problems related to the provision of medical care in the war zone due to security restrictions, were also analysed.

The historical and legal method was used to study the reforms initiated in 2015, their results and impact on the current state of the healthcare system. The attention paid to previous achievements and shortcomings helped to better understand the context and needs of the modern healthcare system in Ukraine. Trends in the development of the healthcare system in the context of the COVID-19 pandemic were also considered, and the challenges that the healthcare system faced during the crisis were investigated. This included analysing the system's response to the pandemic threat, the effectiveness of measures taken to contain the spread of the virus, and identifying weaknesses that need to be improved. This analysis revealed how the health system can be prepared for future pandemics and emergencies. Additional consideration of the historical context and challenges associated with the COVID-19 pandemic provided an opportunity to gain a deeper understanding of what aspects require priority attention when reforming the health system in times of war and crisis.

A comparative analysis of the results of the study revealed key trends in the reform of the healthcare system during the war. One of these trends was the need for support and assistance from international partners. It was noted that military conflicts pose complex challenges to the health system, and international cooperation can be a key factor in providing the necessary assistance and resources. Then it was considered why international assistance for the Ukrainian health system is important in times of war. In particular, various types of support were analysed, such as: financial support, which provides resources for medical institutions and the purchase of equipment and medicines; technical assistance provides advice, introduces the latest technologies and trains medical personnel according to new standards. The exchange of experience encourages the use of effective strategies and ensures high quality of medical care.

Results

The Ukrainian healthcare system has undergone a significant restructuring, the foundations of which were established in 2015 and began to be officially implemented in 2017. These changes and additions to the legislation covered the creation of the National Health Service of Ukraine (NHS), which received the authority to strategically purchase medical services to optimise costs. The reform also provided for the autonomy of healthcare providers and their transformation into communal non-profit enterprises to avoid conflicts of interest. One of the main aspects of this restructuring was the transition from cost-based financing to real-demand procurement, which allowed focusing on the most popular and necessary services for the population. Primary healthcare providers are now paid by capital, while hospitals are compensated by various methods, such as global budgets and reimbursement of service costs. Although these changes were ambitious and met the needs of Ukraine's healthcare system and the requirements of its European partners, the following years were marked by significant challenges (Gorodnichenko *et al.*, 2022).

An effective criterion for determining the quality of medical care for the population is the dynamics of mortality and life expectancy, but in Ukraine these aspects pose a complex demographic challenge. From 2009 to 2013, life expectancy in Ukraine increased, but from 2014 to 2019, the situation worsened due to political, military, and economic factors. Since 2020, life expectancy has also worsened due to the COVID-19 pandemic. Although mortality from cardiovascular diseases shows an overall decline over the past fifteen years, since 2019, these figures have noticeably worsened due to the COVID-19 pandemic (Kurylo, 2022).

The topic of healthcare was actively discussed in society, which indicates its great importance for all citizens. The development and implementation of state health policy was one of the most pressing problems in Ukraine during the pandemic. The need for changes in the healthcare system was then substantiated by the requirements for European integration, the need for wider implementation of modern healthcare standards, considering the situation in the state and the national interests of Ukraine. However, not only did the Ukrainian healthcare system face a pandemic, but it was also an unexpected scenario for most healthcare systems. At one time, much attention was paid to studying the effectiveness of public health systems in different European countries at different stages of the COVID-19 pandemic, which is very important for understanding the causes and factors that affect the spread and consequences of the pandemic. The emergency situation caused by a pandemic requires systematic analysis and evaluation of the effectiveness of the response of countries' healthcare systems. It should be noted that during the first wave, concomitant diseases, age, and population density played an important role. During the period of easing quarantine restrictions or in some localities remote from government agencies, it was important to maintain the ability of government agencies to coordinate and implement effective measures to limit and control the pandemic. Thus, the healthcare systems of European countries should show flexibility and adaptability in planning and implementing crisis management measures to ensure maximum efficiency and protect public health.

Despite the reforms at the beginning of the war in 2022, the system of traumatology in Ukraine turned out to be outdated both in administrative practice and in procedures for responding to injuries. Communication between different levels of the patient evacuation process has constantly created problems, often based on written notes. Patient care has been hampered by limited equipment resources, such as ventilators, and insufficient infection control procedures. Pre-medical care was of different quality, and in some cases

it was limited or even not provided at all. Problems with patient transportation also affected the quality of medical care. The lack of structured recommendations for responding to injuries has led to a lack of standardisation of medical care. Rehabilitation services were also limited. The trauma care system needed to be standardised by improving the training of medical personnel and public awareness, improving pre-medical care and transportation, and providing sufficient equipment. In addition, it was assumed that the need for rehabilitation services would increase in the second year of the conflict and the issue would be relevant throughout its course and sometime after (Lawry *et al.*, 2024). Although the war was a significant test for the Ukrainian healthcare system, the challenge for European healthcare systems was the massive flow of refugees and the need for their medical care.

Improving the situation and reducing waiting times at the Ukraine-Poland border was one of the main issues during the mass evacuation. Prolonged waiting for both motorists and pedestrians puts life and health at risk, contributing to panic and insecurity. Since temperatures were low at the time, there was a shortage of tents and other shelter options where people could keep warm. Cooperation between Poland and EU institutions, and other countries, is important to provide for those refugees who will remain in Poland and other EU countries until the end of the war. This implies long-term efforts to integrate refugees into local communities, including adjustments to various institutional functions in various sectors, such as the labour market, health and education (Jaroszewicz *et al.*, 2022). Due to the war in Ukraine, there was a significant increase in the number of wounded people, including civilians and military personnel. This influx of wounded has created serious difficulties for the Ukrainian health system, requiring immediate and effective medical care. In this regard, it was decided to transport patients to hospitals in Germany and other countries for further treatment. The process and organisational challenges associated with coordinating the distribution of wounded people to hospitals, especially in Germany, were significant.

Organising and coordinating the transportation of wounded people from Ukraine to Germany required detailed planning and cooperation with various medical services. This included choosing the best routes that can provide the necessary medical care during transportation. The arrival of the wounded in hospitals in Germany required the readiness of medical institutions to accept patients and provide them with the necessary treatment. This consisted of organising hospitalisation, appropriate medical personnel, and providing the necessary medical equipment and medicines. An important part of the process was also effective coordination between Ukrainian and German medical services to provide prompt and effective care to the wounded and informational and moral support to their relatives (Friemert & Pennig, 2023). However, the war has serious consequences for public health, which go beyond the direct injuries and injuries associated with the conflict. Disruptions in the supply of healthcare products and services pose a significant risk of disease and mortality from non-communicable diseases such as heart disease, diabetes, and cancer. One of the biggest challenges in providing medical care to refugees has also been maintaining continuous treatment for chronic diseases and addressing mental health issues that can become difficult due to relocation and war-related stress.

It is important to reduce the risk of spreading infectious diseases, in particular those caused by COVID-19, and to carry out high-quality monitoring of dangerous diseases, such as tuberculosis and HIV, among refugees (Kolińska *et al.*, 2023). In addition, there is a risk of the emergence and spread of infectious diseases in the affected areas and areas of hostilities due to factors such as the destruction of water supply and sanitation infrastructure, insufficient vaccination and overpopulation as a result of the movement of people fleeing the conflict. In addition to stresses in healthcare facilities, such as delays in operations, the need to move patients to safer areas further exacerbates the health crisis, underscores the ongoing threat and stress faced by healthcare professionals and patients. In response to these challenges, modern initiatives are being actively developed, such as telemedicine consultations created with the help of the Ukrainian Medical Society of North America. By providing remote care to Ukrainians in temporary shelters and supporting overworked doctors, these efforts are aimed at mitigating some of the difficulties faced by the Ukrainian health system (Rubin, 2022).

For Ukrainian refugees, in turn, it is necessary to ensure equal access to medical care, maintain vaccination coverage, and overcome language barriers. In particular, Czech doctors and Ukrainian refugees faced such barriers. Given the influx of refugees from Ukraine in 2022, the pressure on the Czech healthcare system has increased, especially in matters of communication with newly arrived foreign-language patients. There are four main areas of cross-cultural barriers to doctor-patient communication: language barriers, differences in health systems, differences in attitudes to health and disease, and bias. The difference between the Czech and Ukrainian healthcare systems has proved to be the main source of misunderstandings affecting the patient's role in the healthcare system. Therefore, the importance of cross-cultural competencies in training physicians to avoid possible misunderstandings should be emphasised (Jelínková *et al.*, 2023).

In turn, the full-scale conflict also led to massive displacement of the population, which affected personnel issues in the health sector and deepened regional inequality. In addition, trauma and conflict stress have increased the need for mental healthcare, but psychiatric care remains underdeveloped in Ukraine, particularly for the population from the affected areas (World Health Organisation, 2022a). Increasing social inclusion and mental health assistance for the population evacuated from the temporarily occupied territories (TOT), already de-occupied and frontline territories requires a comprehensive and sustainable approach that considers the specifics of the crisis situation and the needs of the local population. It is important to develop programmes and campaigns aimed at raising awareness about mental health, educating about the signs and symptoms of mental disorders, and reducing the stigma associated with these problems. Support and resources are also needed to develop and coordinate mental health services at the local level. Develop and implement models of mental health services that consider the available resources and needs of the population, specialised programmes and services for vulnerable groups such as children, veterans, the elderly and displaced persons.

Collaboration with international and local humanitarian organisations to provide assistance and support in the implementation of mental health programmes and services

(Quirke *et al.*, 2022). In turn, the project "Traumatic-oriented cognitive behavioural therapy" (TOCBT) plays an important role in providing psychological support to children and adolescents affected by traumatic events in war conditions. This project not only trains Ukrainian specialists to use TOCBT, but also actively implements this therapy to improve the mental well-being of affected individuals and their families. An important component of the project is to promote the resilience and adaptation of children and adolescents, which is an important factor in overcoming the negative consequences of traumatic events. Initiatives such as TOCBT are important steps in maintaining mental health in wartime environments and contribute to restoring health in conflict-affected communities (Pfeiffer *et al.*, 2023). It should also be noted that the course of chronic diseases that were common before the war began has worsened due to disruption of drug supply chains and limited access to health facilities (World Health Organisation, 2022b).

The conflict has had a major impact on the health sector, complicating the existing challenges posed by the ongoing COVID-19 pandemic and the challenges of timely vaccination. The situation is further complicated by the influx of displaced persons fleeing the war to other villages, cities or regions, concentrating in certain locations for humanitarian aid or temporary shelters, or people seeking protection from shelling and rocket attacks in subways or basements where basic quarantine measures such as social distancing and wearing masks are difficult to comply with. In turn, the supply of vaccines and vital medicines is hampered by the armed conflict. The situation with COVID-19 has worsened, which has led to an increase in mortality and an additional aggravation of the situation in the healthcare system of Ukraine. Despite the temporary decline in the number of cases, insufficient vaccination rates in the country leave the population vulnerable to possible further outbreaks, and the destruction of oxygen stations only worsens the medical crisis (Patwary *et al.*, 2022).

The Russian invasion of Ukraine also caused significant destruction of civilian infrastructure, including hospitals and clinics, which created serious problems for the Ukrainian health system and hindered the provision of trauma care. International medical organisations have responded to the rapid increase in the number of victims in need of medical care by sending humanitarian aid and volunteers. Destruction of infrastructure and attacks on health facilities have further burdened the health system, making it more difficult to fight infectious diseases and other diseases (Gorodnichenko *et al.*, 2022). Human rights organisations have documented more than 700 cases of attacks on hospitals, medical personnel, and medical infrastructure in Ukraine since the beginning of Russian aggression. The general information report notes that the average number of attacks was two per day between February 24 and December 31, 2022, which included attacks on medical facilities, staff and ambulances.

Between February 24 and December 31, 2022, there were a total of 624 attacks on the Ukrainian medical system. Among them, 292 attacks targeted infrastructure, leading to the destruction or damage of 218 hospitals and clinics. Additionally, 181 attacks were directed at other medical facilities. Ambulances were attacked 65 times. Medical personnel were also affected, with 86 attacks recorded, resulting in 62 deaths and 52 injuries. In total, 399 medical facilities were affected, and 114 medical professionals were either injured or killed (Mahase, 2023).

Many of the medical workers were taken hostage, came under direct fire, or were forced to work for the occupation forces. Economic losses from the war, including job losses and currency devaluation, have only deepened the issue of access to healthcare for the population. Despite the fact that the war puts a significant burden on the ability to provide effective medical care to citizens, the state continues to exercise effective control over the health system. Addressing corruption and optimising project implementation are now key to efficient use of resources and restoring a sustainable and balanced healthcare system (Gorodnichenko *et al.*, 2022).

The intensity of Russian aggression in Ukraine has serious consequences for public health, especially in terms of increasing morbidity and mortality. To reduce the number of casualties and ensure the safety of medical and rescue teams on the battlefield, it is important to identify best medical practices and response strategies. Simulating battle scenarios using the SIMEDIS simulator can help with this process. By developing and testing various critical response strategies, it is possible to find the most effective methods for controlling bleeding, helping to speed up the selection of medical personnel, and the distribution of victims to medical institutions. It should be emphasised that effective bleeding control reduces mortality among the wounded. In addition, it is important to develop and implement emergency response strategies that consider the needs and constraints associated with conflict. This may include planning and placing medical posts near the front line, ensuring stable access to medical resources, and coordinating efforts between various medical and humanitarian organisations (Benhassine *et al.*, 2023).

The process of healthcare reform in Ukraine is closely intertwined with demographic trends, public health indicators, and financial constraints caused by war-related challenges. Key socio-demographic data demonstrate the shifts in population health, healthcare accessibility, and financial burdens that influence the trajectory of legal and institutional reforms in the medical sector. These indicators provide insight into the necessity for restructuring healthcare governance, funding mechanisms, and legislative adjustments. Table 1 summarises major socio-demographic trends affecting healthcare reform in Ukraine between 2021 and 2023.

Table 1. Socio-Demographic Indicators Related to Healthcare Reform in Ukraine (2021-2023)

Indicator	2021	2022	2023	Change (2021-2023)
Total population (millions)	41.2	39.0	36.7	-11.0%
Internally displaced persons (millions)	1.5	5.4	4.9	+226.7%
Life expectancy (years)	72.3	69.1	68.4	-3.9 for the year
Infant mortality rate (per 1,000 live births)	7.2	8.1	8.7	+20.8%
Out-of-pocket health expenditure (% of total health spending)	48%	61%	57%	+9 pp
Government healthcare spending (% of GDP)	3.8%	4.9%	5.2%	+1.4 pp

Table 1, Continued

Indicator	2021	2022	2023	Change (2021-2023)
Mental health consultations (millions)	2.1	3.5	3.8	+80.9%
Registered tuberculosis cases (thousands)	18.5	23.1	24.7	+33.5%
Number of healthcare professionals (per 10,000 people)	28.5	26.2	25.4	-10.9%
Share of war-related injuries in hospital admissions (%)	2%	18%	16%	+14 pp

Source: World Health Organisation (2023), Ministry of Health of Ukraine (2023)

The data indicate a significant population decline due to migration, war casualties, and worsening health conditions. The number of internally displaced persons (IDPs) surged by over 200%, increasing the demand for medical services while straining regional healthcare capacities. A drop in life expectancy and a rise in infant mortality reflect deteriorating living conditions, heightened stress levels, and disruptions in maternal and child healthcare. Economic pressures also played a crucial role in shaping healthcare reform. The share of out-of-pocket health expenditures increased, peaking at 61% in 2022, making healthcare less accessible, particularly for vulnerable populations. However, government spending on healthcare as a percentage of GDP rose, reflecting policy adjustments aimed at mitigating financial barriers. These trends underscore the importance of strengthening state-funded healthcare provisions and revising legal frameworks to protect the population from catastrophic medical costs. Mental health concerns have become more pronounced, with the number of consultations rising by 80% since 2021. The legal framework for mental healthcare reform remains a priority, with new policies emphasising accessibility and integrating psychological support into primary care services (Bocheliuk *et al.*, 2020). Similarly, the rise in tuberculosis cases signals an urgent need for enhanced disease control measures, which have been incorporated into legislative amendments addressing infectious disease management.

The number of healthcare professionals per capita has declined due to migration and workforce depletion, necessitating reforms in medical education, employment incentives, and international cooperation to address personnel shortages. Additionally, war-related injuries accounted for a growing share of hospital admissions, highlighting the necessity of integrating military and civilian healthcare systems and legally regulating emergency medical response mechanisms. These socio-demographic dynamics form the basis for legal and institutional reforms in the Ukrainian healthcare system. Legislative updates aim to address the financial sustainability of healthcare services, enhance emergency preparedness, and ensure equitable access to medical care, particularly in conflict-affected regions. The following sections will explore the legal principles and trends guiding the evolution of Ukraine's healthcare system amid these challenges.

The Ukrainian healthcare system has demonstrated resilience despite the severe consequences of the war. As of 2023, regions that were heavily affected by active fighting during the initial stages of the invasion have managed to restore access to medical care, and the differences between these regions and those less affected have narrowed. However, residents in areas still under conflict or not fully controlled by the Ukrainian government continue to face limited access to family doctors and medications. Internally displaced persons (IDPs) are particularly vulnerable compared to local populations, with notable disparities in healthcare access (World Health Organisation, 2023).

Ukraine is preparing for reconstruction with a focus on protecting public health and creating favourable conditions for the return of healthcare workers and the population. The readiness of the healthcare system to respond to emergencies is a crucial factor for effective management of potential threats (Hundertailo, 2024). To ensure this preparedness, the system requires adequate resources, including safe facilities, laboratories, warehouses, qualified personnel, and an advanced information system. Additionally, aligning with international health regulations and maintaining effective communication between governmental levels are paramount (World Health Organisation, 2022a). Given the increasing relevance of medical threats from chemical, biological, radiological, nuclear, and explosive factors, it is essential to reform the Center for Disaster Medicine. This reform should strengthen cooperation between the National Health Service, Regional Centers for Disease Control and Prevention, the State Emergency Service, and military medical units.

From a sociological and demographic perspective, several key indicators reflect the state of healthcare and its challenges. In 2022, the World Health Organisation (WHO) reported that there was a 30% increase in mental health issues, particularly post-traumatic stress disorder (PTSD) and depression, compared to pre-war levels (World Health Organisation, 2022b). A surge in consultations with psychological services was observed, with a 40% increase in demand for mental health professionals in urban areas, which contrasts with rural areas where such access remained limited due to infrastructure damage and staffing shortages. In terms of infectious diseases, the Ministry of Health of Ukraine noted a significant increase in the number of tuberculosis cases, rising by 25% between 2021 and 2022, partially attributed to disruptions in the healthcare delivery system and the breakdown of sanitation and preventive health measures (Ministry of Health of Ukraine, 2022). The health system's performance in disease prevention and response has been further challenged by shortages of medical supplies and equipment. A report by the WHO stated that the supply chain for essential medicines was disrupted by an estimated 60%, leading to increased out-of-pocket expenses for the population (World Health Organisation, 2023). Financially, the war has led to an increase in healthcare costs for both the government and the population. Data from the Ukrainian Ministry of Finance indicated that government spending on health care increased by 50% in 2022 compared to the previous year. Meanwhile, household spending on medicines rose by 37%, with many families unable to afford essential medications due to inflation and economic hardship (Ministry of Finance of Ukraine, 2023). The spending on medicines in 2023 was reported at approximately 10% of total household income, a stark increase compared to pre-war figures.

International assistance has been a crucial factor in stabilising the healthcare system. Humanitarian aid has helped provide essential medical supplies and support services. The Risk Communication and Community Engagement (RCCE) strategy, developed by the WHO, has been instrumental in responding to health emergencies by promoting effective crisis management and public engagement (World Health Organisation, 2022c). A technical working group within the Ukraine Health Cluster coordinates efforts and acts as a platform for sharing experience and resources. The initiative has successfully engaged communities in regions such as Ternopil, Lviv, Zaporizhzhia, Kyiv, and Dnipropetrovsk, addressing public health issues and disseminating vital information (World Health Organisation, 2023). Furthermore, training initiatives for medical personnel have been crucial for improving care quality. US-based medical teams have provided essential training in advanced trauma life support (ATLS) and point-of-care ultrasound (POCUS), critical skills for managing trauma cases in conflict situations. The WHO has reported that more than 2,000 Ukrainian healthcare workers participated in such programs by mid-2023, with a focus on improving trauma care and life-saving skills (Baker *et al.*, 2023).

Bordering countries, such as Poland, have also played a significant role in supporting Ukrainian refugees. In addition to providing medical care, Poland facilitated the creation of medical points at border crossings where Ukrainian refugees could receive first aid. Ukrainian refugees were given access to the same medical services as Polish citizens, including medicines, medical supplies, and free psychological assistance (Fatyga *et al.*, 2022). In line with these efforts, Ukraine has made significant legislative amendments to improve its healthcare system. Key reforms include the establishment of the National Health Service of Ukraine, updates to the Electronic Health System, and revisions to the Civil and Economic Codes regarding medical practice. These changes aim to improve healthcare quality, regulate medical institution activities, and ensure a more efficient healthcare delivery system (Government of Ukraine, 2022). While the war has imposed severe challenges on the Ukrainian healthcare system, the concerted efforts of the government, international partners, and medical personnel have enabled a degree of stabilisation. However, much work remains, particularly in addressing the disparities in healthcare access, financial burdens on households, and the need for continued investment in infrastructure and human resources. As the war continues, ongoing reforms, both domestic and international, will be vital in restoring and strengthening Ukraine's healthcare system.

The following laws of Ukraine should be mentioned: the Law of Ukraine No. 2002-VIII "On Amendments to Certain Legislative Acts of Ukraine on Improving Legislation on the Activities of Health Care Institutions" (2017), Law of Ukraine No. 530-IX "On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)" (2020) and Law of Ukraine No. 2347-IX "On Amendments to Certain Legislative Acts of Ukraine on Improving the Provision of Medical Care" (2022). The 2017 Law was adopted as part of the government's initiative to reform healthcare in Ukraine, in accordance with the subparagraph 2 of paragraph 1 of this Law, the medical legislation was supplemented with the term "service for medical care of the population (medical service)", and also defined the forms of ownership of educational institutions: "state, municipal, private or based on a mixed form of ownership" (Law of Ukraine No. 2002-VIII, 2017). The 2020 Law was adopted in connection with the pandemic of coronavirus disease caused by SARS-CoV-2 and provided for the following reforms: introduced administrative liability for violation of quarantine restrictions, exempted from taxation (value added tax and import duty) medicines and medical equipment necessary for "preventing the occurrence and spread, localisation and elimination of outbreaks, epidemics and pandemics of coronavirus disease (COVID-19)" (Law of Ukraine No. 530-IX, 2020). The 2022 Law was adopted in connection with a full-scale invasion and contained the following legislative additions: according to subparagraph 2 of paragraph 1 of this Law, the medical legislation was supplemented with the terms "hospital district", "general healthcare institution", "cluster healthcare institution", "super-cluster healthcare institution"; sp. 3 of p.2 establishes the right of citizens "to receive rehabilitation assistance during the provision of medical care" (Law of Ukraine No. 2347-IX, 2022).

Among the orders of the Cabinet of Ministers of Ukraine, attention should be paid to Order of the Cabinet of Ministers of Ukraine No. 1013-p "On Approval of the Concept of Healthcare Financing Reform" (2016) and Order of the Cabinet of Ministers of Ukraine No. 821-p (2017). These orders relate to the period of government initiative and reflect the vector of development of the healthcare system of Ukraine at that time. Accordingly, the first order provided for the approval of the concept, while the 2017 order contained the following plan for its implementation: the creation of a legal framework for a new healthcare financing system, the creation of a single national customer of public health services (medical services), the autonomy of budgetary healthcare institutions, the creation of a unified electronic system for the exchange of medical information, the revision of unified clinical protocols for the list of the most common medical conditions and simplification of requirements for maintaining paper reports in healthcare institutions, the introduction of a new funding model for PHC, introduction of a new model of financing medical care for secondary (specialised) and tertiary (highly specialised) medical care, creation of hospital districts, introduction of a national system of reimbursement of medicines for a certain list of medical conditions, monitoring the implementation of the reform of financing the healthcare system.

In turn, the Resolutions of the Cabinet of Ministers of Ukraine should be immediately divided into periods: Resolution of the Cabinet of Ministers of Ukraine No. 1138 "On Approval of the List of Paid Services Provided in State and Municipal Healthcare Institutions and Higher Medical Education Institutions" (1996), Resolution of the Cabinet of Ministers of Ukraine No. 285 (2016), Resolution of the Cabinet of Ministers of Ukraine No. 1101 (2017), Resolution of the Cabinet of Ministers of Ukraine No. 411 (2018) – period of government initiative; Resolution of the Cabinet of Ministers of Ukraine No. 392 (2020), Resolution of the Cabinet of Ministers of Ukraine No. 211 (2020), Resolution of the Cabinet of Ministers of Ukraine No. 641 (2020), Resolution of the Cabinet of Ministers of Ukraine No. 1236 (2020) and about Resolution of the Cabinet of Ministers of Ukraine No. 677 (2021) – a period of reform due to the coronavirus pandemic caused by SARS-CoV-2. The resolutions of the government initiative period were aimed at developing and

reforming the healthcare system in accordance with the state concept. The resolutions of the pandemic period established quarantine restrictions, regulated anti-epidemic measures and normalised vaccination issues.

The Order of the Ministry of Health of Ukraine No. 504 (2018) should be considered separately. Adopted as part of a government initiative, the 2018 Order approved the procedure for granting permanent residence, and also declared invalid two other orders of the Ministry of Health of Ukraine. In turn, the approved procedure fixed new terms, such as: "PHC provider", "PHC doctor", "PHC team", "PHC practice", "PHC practice volume", "optimal PHC practice volume", "PHC group practice"; and settled the issue of PHC provision. In turn, the organisational and legal basis and area of development of the healthcare system of Ukraine until 2030 are consolidated in the Project of the Healthcare System Development Strategy until 2030 (2022). The draft was finalised and agreed by the members of the Intersectoral Working Group on the development of this Strategy, but its future remains unresolved as it is still under review by the Ministry of Health. The strategy should be implemented in three stages: the first stage (2022-2024), the second stage (2025-2027), and the third stage (2028-2030). At each of these stages, it is planned to develop and implement an action plan that will cover the corresponding period. Within the framework of these plans, the key tasks associated with each strategic goal of the strategy will be specified. In particular, the strategy itself sets out the relevant strategic areas and priorities. The review of the healthcare system development strategy reveals five areas of activity, each with its own strategic priorities.

All these areas and strategic priorities are designed to ensure the sustainable development of the healthcare system and improve the quality of medical services for all citizens. However, there are also trends that are not directly related to government programmes. These include an increase in the quantitative and qualitative indicators of innovative approaches and practices in the process of international cooperation, the receipt of high-quality foreign medical equipment from international partners as part of humanitarian and healthcare support programmes in Ukraine, and the exchange of experience between Ukrainian and European or American doctors.

Discussion

Analysing the results of the study, attention should be paid to such aspects as: the consequences of the war in Ukraine for other states and their health systems, the need to analyse the experience of Ukraine to improve the health systems of other states, issues of ensuring access to medical care for refugees. The war in Ukraine, as noted in the study, created significant challenges for the Ukrainian health system, but it also provoked a significant flow of refugees to European countries whose health systems were not ready for such a large number of refugees. On the other hand, most European countries have not only been able to adapt quickly to such challenges, but are also actively studying the experience of Ukraine in order to improve their health systems, increase their resilience to emergencies and develop approaches to managing situations with a massive influx of refugees (Ponomarenko & Pysarchuk, 2024).

An important issue is the assessment of the safety culture among medical personnel in hospitals in Europe, which is very important for understanding the level of safety and quality of medical care in different countries. Results of the study by N. Granel-Giménez *et al.* (2022) show significant differences in perceptions and practices of security culture between countries, and the need to further improve these aspects. For example, teamwork proved to be a positive aspect in all countries, but some issues, such as support, respect and cooperation, were less pronounced in Croatia and Hungary, which may indicate the presence of different cultural and organisational features that affect relationships and cooperation between medical personnel.

Addressing the issues of safety culture in hospitals to ensure patient safety and improve the quality of medical care requires considering such features in perceptions and practices between countries, which can help develop universal or special approaches to improving the safety culture (Kantor & Kubiczek, 2021; Spytska, 2023). Such conclusions are confirmed in the study by R. Rubin (2022), however, it focused more on the importance of providing professional medical care to victims as the main task of medical professionals, thus referring issues of cooperation between doctors to non-negotiable aspects of their activities that should not be placed above direct responsibilities. In particular, this is due to the fact that there is a difference in the perception of the duties of a doctor in the territory of armed conflict and other states that do not directly suffer from it.

It should be noted that in connection with the events in Ukraine, in Europe, in particular in Germany, there was a revision of its own preparation for such scenarios, which provides for balancing medical capacities and needs exceeding the usual standards. According to A. Franke *et al.* (2024), the sustainability of the health system is to respond effectively to such exceptional circumstances, especially in the face of disasters and mass injuries, while maintaining medical standards and providing high-quality surgical treatment. In situations of mass injuries or disasters, trauma and surgical patients prevail, and the state directs efforts to maintain or restore the stable operation of medical institutions. Efforts and training should be aimed at strengthening the provision of hospitals with the necessary equipment and personnel, and additional training of medical professionals to effectively deal with the consequences of disaster situations and medical disasters, maintaining continuous monitoring of the situation, including hospital statistics. It is also important to effectively eliminate the consequences or resist emergencies by establishing a consensus on the terminology, methods of traumatology, and principles of surgical treatment.

Efforts have also focused on developing and verifying a model for assessing the sustainability of critical infrastructure in German hospitals, which is an important step in ensuring the safety and effectiveness of medical facilities in emergency situations. According to R.U. Hübner *et al.* (2023), this allows understanding which aspects require the most attention and resources in the event of a crisis. In particular, backup power supply and additional medical personnel were identified as the most critical elements that require immediate improvement. An important aspect was also the introduction of the Sustainability Index, which allows hospitals to assess their overall sustainability based on the parameters of individual elements of critical infrastructure. This index can serve as a basis for planning actions in crisis situations, and for developing risk management strategies and improving crisis preparedness. It is important to

emphasise that only continuous improvement and optimisation can ensure the safety and efficiency of hospitals and the healthcare system as a whole. The study also noted the importance of developing strategies for responding to various types of threats, in particular, this need was confirmed by M. Benhassine *et al.* (2023), but based on Ukrainian realities and the most urgent needs.

In general, according to P.B. Spiegel (2022a), there is a dialogue in Europe on the need to establish a strong, timely and comprehensive health information system that provides early warning and response to mass injuries, and provides communication between community organisations, the health system, and insurers. The refugee crisis from Ukraine, as well as the COVID-19 pandemic, has highlighted the need to improve health systems in EU countries. It should be agreed that health challenges always give rise to some momentum to improve the health system, as confirmed by Y. Gorodnichenko *et al.* (2022), which were described as crisis or unfavourable situations in Ukraine gave an impetus to the reform of the Ukrainian healthcare system.

The comparison between Poland and Ukraine in the field of immunisation programmes and public health measures does reflect differences in approaches and responses to infectious threats. According to K. Lewtak *et al.* (2022), differences in the prevalence of infectious diseases and approaches to immunisation indicate different vectors of development of health systems in countries. In Poland, the focus is on analysing the growing demand for medical resources, which is important for planning future healthcare needs and ensuring their effective provision. This approach allows preparing for changes in the demographic situation and the burden on the health system. Common strategies to reduce epidemic threats, including preventive measures and immunisation campaigns, are important elements in the fight against infectious diseases. Strengthening health capacity helps countries better manage public health crises and protect their citizens (Kotsur & Tovkun, 2024).

The importance of identifying best practices and developing optimal strategies for combating infectious diseases and ensuring access to quality healthcare for the population should be emphasised. However, according to A.C. Lee *et al.* (2023), a new challenge for Poland's health system was the massive flow of refugees from Ukraine, which quickly overwhelmed local services, leading to a difficult humanitarian situation. During the first two months of the war, more than 3 million refugees fled to Poland, and the priority was to address their basic human needs, such as shelter, medical care, and protection from infectious diseases. The response to the refugee crisis required a comprehensive approach involving several institutions and NGOs. At this stage, it was important to carefully assess needs, develop systems for monitoring and monitoring diseases. In addition, efforts to integrate refugees into society can help reduce some of the negative effects of migration associated with social conflicts (Pochwatko & Naydonova, 2023).

One of the issues is the shortage of medical personnel and compliance with existing legal and ethical standards. According to K. Kolińska *et al.* (2023), through a comprehensive approach to these issues, healthcare systems in different countries can better support the health and well-being of refugees in the long term. This should be accepted, as the shortage of medical personnel and compliance with legal and ethical standards are serious problems in many countries hosting refugees. In particular, as already noted, a similar situation has developed in the Czech Republic. It should be noted that an integrated approach to these issues can help improve the quality of medical care for refugees and provide them with the necessary medical and psychosocial services in the long term, but the question of knowledge of the language of the country where refugees arrive remains a significant barrier.

In particular, as noted by P.B. Spiegel (2022b), with the aim of improving the medical care of refugees in Poland, Refugee Health Extension was created, which is an important step in providing medical care and support for refugees from Ukraine. The centre plays an important role in coordinating and organising the response to the health of refugees, providing access to essential health services and resources. This is one of the areas of implementation of Poland's policy to fully ensure the long-term stay of Ukrainian refugees on its territory, which has already been noted in the results of the study.

It should also be noted that due to the arrival in France of many people fleeing the conflict in Ukraine, the French High Council for Public Health (HCSP) has formulated several recommendations. As stated by N. Vignier *et al.* (2022), experts considered the increased vulnerability of refugees, which is caused by such factors as: increased population density, psychological trauma, chronic and infectious diseases, insufficient level of vaccinations. In view of these circumstances, the experts recommend that priority be given to the following actions: immediate adoption for emergency medical care and assessment of urgent needs, including psychological support, ensuring continuity of medication intake and managing the risk of infections; implementation of additional priority measures as soon as possible, in particular, with regard to vaccination with auxiliary vaccines, especially against SARS-CoV-2, and mandatory vaccination for school admission, screening for post-traumatic stress disorder and tuberculosis; to carry out continuous monitoring of social rights and ensuring continuity of care outside the first aid period. They recommend organising "health meetings" within four months of a migrant's arrival in the country to consider any changes in medical care needs.

Despite the consequences that Russian aggression entails for the Ukrainian healthcare system, some researchers, in particular D.A. Leon *et al.* (2022), note that such a large number of losses and injuries among Russian servicemen puts their own healthcare system, which is less developed than the Ukrainian one, in a critical situation in territories close to the conflict. This opinion should be accepted, as a military conflict can indeed have a complex impact on healthcare systems not only in the countries affected by the attack, but also in the aggressor country. This, in particular, reflects the problems of developing the healthcare system of the aggressor country. Slovakia has also faced a serious challenge posed to its healthcare system by Ukrainian refugees. According to E. Holt (2022), the constant influx of refugees who are mentally traumatised, but sometimes physically with the need for urgent treatment, puts a significant strain on medical resources, which can lead to an overload of the healthcare system. The need to adapt European health systems to the admission of patients from Ukraine has already been emphasised in the study, in particular, the need for special transportation and the involvement of medical translators was noted.

Thus, both the results of the study and the opinion of other researchers confirm that the healthcare system of Ukraine has experienced a serious impact due to Russian aggression. This crisis has affected all aspects of medical care, from providing medical care to providing the necessary medicines and medical equipment. It is important to emphasise that the security situation in Ukraine has caused a significant flow of migrants, which has overloaded the health systems of neighbouring countries. This has forced the whole of Europe to reconsider its strategies for providing medical care to refugees and improving its own health systems. There is a need to adapt and improve medical support systems so that they can effectively cope with emergencies and provide adequate care to all those who need it. However, there were some unexpected thoughts among the studies reviewed, such as overloading the health system of front-line regions by the enemy. This highlights the need for further analysis and study of the various aspects of the impact of military conflicts on the health system, and the development of effective strategies to address the challenges that arise in this regard.

Conclusions

In the course of this study, an analysis of legislative and scientific materials was conducted to determine current trends in the reform of Ukraine's healthcare system. Special attention was given to the examination of key legislative acts and scientific research related to the evolution of healthcare policies. The historical analysis of reforms since 2014 identified three distinct periods, each shaped by specific socio-political and economic challenges. The first period, 2014-2019, marked the introduction of a broad reform program aimed at improving healthcare quality and accessibility. Key changes included the decentralisation of medical services, the establishment of the National Health Service of Ukraine (NHSU), and a shift toward state-guaranteed healthcare financing. While these measures laid the groundwork for systemic change, their impact on socio-demographic indicators was mixed. Life expectancy remained stagnant, with a slight decline from 72.3 years in 2014 to 71.6 years in 2019, reflecting persistent challenges in preventive healthcare and medical accessibility. Birth rates also continued to decline, indicating that broader socio-economic instability limited the effectiveness of these reforms in improving overall health outcomes.

The second phase, 2019-2022, was driven by the SARS-CoV-2 pandemic, prompting the rapid implementation of emergency healthcare measures. These included the expansion of telemedicine, increased funding for infectious disease control, and stricter quarantine regulations. However, despite these interventions, the pandemic had severe demographic consequences, with mortality rates rising sharply, particularly among the elderly. The share of out-of-pocket healthcare expenses peaked at 61% in 2022, demonstrating that financial barriers remained a significant issue despite increased state funding. Additionally, non-COVID-related medical care suffered as resources were redirected, further exacerbating healthcare access disparities. The most recent period, 2022-2024, has been dominated by the consequences of the full-scale invasion, which inflicted massive damage on healthcare infrastructure, increased war-related injuries, and escalated the psychological toll on the population. The number of healthcare professionals per 10,000 people dropped by 10.9% due to migration and staff shortages, further straining medical services. PTSD and other mental health conditions surged, with demand for psychological support increasing by 80%. The burden on hospitals grew significantly, with war-related injuries accounting for 16% of total hospital admissions in 2023. Despite ongoing reforms, their immediate impact on social and demographic indicators remains limited. Life expectancy dropped further to 68.4 years in 2023, and tuberculosis cases increased by 33.5%, reflecting the fragility of public health infrastructure. Government healthcare expenditure rose to 5.2% of GDP, but resource allocation inefficiencies persist.

The study identified key trends in healthcare reform: universal medical coverage, workforce development, technological advancements, and international cooperation. While these trends are aimed at improving system efficiency, their success will depend on their ability to generate measurable improvements in public health. Future research should focus on evaluating the long-term demographic effects of healthcare reforms, addressing workforce shortages, and enhancing international medical collaboration.

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Conflict of interest

None.

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Правові основи та нові тенденції реформування системи охорони здоров'я України

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Анотація. Актуальність дослідження полягає в необхідності з'ясування організаційно-правових засад та сучасних тенденцій реформування системи охорони здоров'я України в умовах війни, оскільки ефективне функціонування цієї системи безпосередньо пов'язане із забезпеченням національної безпеки держави. Метою дослідження було виявлення сучасних тенденцій реформування системи охорони здоров'я України. В основу дослідження було покладено використання історичного підходу та аналізу проблеми, під час якого використано такі методи, як: формально-правовий, історико-правовий та порівняльно-правовий. У дослідженні розглянуто процес реформування української системи охорони здоров'я з 2015 року та звернуто увагу на події, які мали на нього найсуттєвіший вплив. Основними результатами дослідження стала конкретизація сучасних тенденцій реформування системи охорони здоров'я в Україні. Серед результатів реформ можна вказати універсальне охоплення населення медичними послугами шляхом запровадження ефективної інтегрованої моделі надання послуг, підвищення кадрового потенціалу з урахуванням нагальних потреб системи охорони здоров'я України та забезпечення професійного благополуччя працівників. Впровадження інновацій, активізація міжнародного співробітництва в галузі медицини сприяли інтеграції української освіти і науки в міжнародний контекст, обміну досвідом з американськими та європейськими фахівцями, а також отримання доступу від партнерів до передових технологій у медичній сфері. Ці тенденції, спрямовані на підвищення якості та доступності медичної допомоги для всіх громадян України, можуть проявитися у суттєвому покращенні стану української системи охорони здоров'я. У дослідженні також проаналізовано проект стратегії розвитку системи охорони здоров'я до 2030 року та інші нормативно-правові акти щодо уточнення державної політики у цій сфері. Новизна дослідження полягала у комплексному аналізі організаційно-правових засад і сучасних тенденцій реформування системи охорони здоров'я України в умовах збройного конфлікту, систематизації змін, що відбулися з 2015 року, виявленні конкретних викликів і механізмів адаптації. Результати дослідження можуть бути використані для порівняння української системи охорони здоров'я з такими системами в інших країнах

Ключові слова: кадровий потенціал; державна служба; воєнний стан; фізичні та психологічні травми; вектор розвитку медичної допомоги

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Harmonisation of Ukrainian legislation with EU law in the field of alternative civil dispute resolution: Challenges and prospects

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Abstract. The research relevance is determined by the urgent need to harmonise Ukrainian legislation in the process of European integration, as well as by the shortcomings of the Ukrainian judicial system – heavy court workload, lengthy and complex litigation, significant legal costs, and the phenomenon of continuation of the conflict in a latent form after a court decision is made due to the different perception of a fair resolution of the dispute between parties. The study aimed to outline the theoretical foundations of alternative dispute resolution and studying the experience of EU member states in terms of mechanisms and practices of their implementation. The study demonstrated that maintenance of partnership relations between the parties to a dispute is one of the most important factors contributing to the active development of alternative dispute resolution, since while courts use a narrow definition of the problem (only such circumstances that have legal significance), alternative dispute resolution uses a broad approach. As a rule, not only legal factors are covered (although sometimes they are excluded from consideration altogether), but also commercial interests, personal factors, public and even social factors, which substantially improves the balance of the interests among parties. The review of the implementation of alternative dispute resolution in different EU countries, as well as the analysis of the general EU approach in this area, concluded that there are no specific mandatory provisions in European law on the use

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of such practices in civil disputes, and Member States have a great deal of freedom to develop and implement appropriate paradigms and models. In the context of Ukrainian cultural aspects, including strong traditions of institutionalisation, it is recommended that judges be involved in the process of alternative dispute resolution in various roles. This would make the transition period smoother and ensure for the eventual development of perfect, "polished" and efficient national legislative mechanisms for alternative dispute resolution corresponding to European law and traditions

Keywords: alternative dispute resolution; EU law; legislative harmonisation; mediation; out-of-court dispute resolution

Introduction

The focus on integration into the European community has made ensuring compliance of the national legal system with European community standards in general, as well as the establishment of a truly effective mechanism for the protection of human and civil rights and freedoms one of Ukrainian strategic development priorities. As a result, the need for considerable reform of the national system for the protection of civil rights and interests arose, which is presently being developed mostly at the cost of jurisdictional organisations. At the same time, the court process for settling legal conflicts is not without flaws. As modern judicial practice demonstrates, courts are overburdened, and the civil process itself is becoming a rather expensive "red tape", as proceedings in many cases are frequently deliberately delayed for an extended period, and the services of highly qualified lawyers are generally not affordable for most citizens. Moreover, the method of forced execution frequently fails, particularly when the defendant refuses to follow the court orders. Furthermore, courts, especially in the regions, are frequently ill-prepared to handle disputes arising from relatively new legal relations in Ukraine (land disputes, stock market deals, complex stock transactions, leasing, information disputes, consumer protection, disputes in the field of intellectual property rights protection, etc.). This is because the successful application of legal norms is largely dependent on the qualifications and experience of judges.

Within this landscape, a notable rise in social and legal tensions, as well as the formation of numerous legal disputes, many of which go unresolved for years, are characteristics of the implementation of important economic, political, state-legal, and other changes in Ukrainian society. Traditionally, the state organised and funds courts to safeguard legally protected interests and rights that were infringed. Notwithstanding its many clear benefits, modern Ukrainian justice also has several drawbacks, including a high court workload, lengthy and complicated legal proceedings, high legal expenses, lack of a mechanism for ensuring adversarial nature and equality of parties in the process, and the possibility of a decision in absentia. Furthermore, the trial publicity results in the release of private information, and the standards for the fairness of dispute resolution are legal in nature and frequently conflict with the notions of justice of those without legal training. As a result, court rulings frequently elicit a negative response from the parties, ending the dispute with a strong ruling but leaving it unresolved, and thus the judicial decisions are not implemented (Kovach, 2024).

In these conditions, practice demonstrates the need to develop knowledge and skills in the field of conflict management and resolution (Slyvka, 2021). This need is prominent in the context of the process of harmonisation of Ukrainian legislation with EU law, without which the European integration of Ukraine will inevitably face difficulties. Meanwhile, such knowledge cannot be entirely borrowed (since the domestic conflict reality is too specific) and cannot be acquired based only on common sense or experience. This does not allude to a universal and uniform rule, nor is there an ideal model or "gold standard" of harmonisation from which Ukraine could copy its path. However, the arrays of regulatory legal acts and entire legal systems of different states or entities after harmonisation have qualitatively more mutual compatibility and compliance than before or without harmonisation. Therefore, harmonisation can be explained not only as a goal but also as a characteristic of processes and mechanisms in the legal system aimed at reducing discrepancies and resolving contradictions in legal norms.

Among contemporary Ukrainian scientists, R.S. Nuryshchenko (2024a; 2024b) analysed the development of alternative dispute resolution since the independence of Ukraine. The author examines the major steps in the development of mediation, arbitration, negotiations, and other methods, as well as the former Soviet influence on the development of alternative dispute resolution in Ukraine and the factors that impede the development of conciliation procedures. In the perspective, such factors include ideological ideas of citizens and a lack of faith in conciliation mediators. The researcher emphasised that several conciliation organisations were already established in Ukraine, and the first regulatory legal acts dedicated to alternative dispute resolution have been adopted (for example, the Law of Ukraine No. 1875-IX "On Mediation" (2021) and the Law of Ukraine No. 1701-IV "On Arbitration Courts" (2021). One of the most important developments in Ukraine is the freedom to choose how to safeguard the rights. However, Ukrainian legislation lacks precise processes, and more effort needs to be made to update Ukrainian legislation on alternative dispute resolution to reflect current circumstances and EU norms. R.S. Nuryshchenko (2024b) also believes that the development of alternative dispute resolution will further help overcome the above-mentioned problems of court overload and lengthy case processing and will also save time and money for the parties. Another key step, according to the author, is to continue legal education and disseminate information about mediation, arbitration courts, conciliation, negotiations, and other approaches, as well as the benefits and efficacy of each.

V.V. Slyvka (2021) emphasised that the latest judicial and legal reforms taking place in the EU Member States in the implementation of Directive of the European Parliament and of the Council No. 2008/52/EC "On Certain Aspects of Mediation in Civil and Commercial" (2008) (for example, the reform "Modernisation of Justice in the 21st Century", which is still ongoing in France since 2016), have demonstrated a conceptual change in the EU model of the role of the court in resolving public law disputes. These reforms aim to improve the legal regulation of alternative methods of resolving public law disputes, in particular, through conciliation. As for the reform in Ukraine, it does not incorporate the current trends in the transformation of the justice system and the role of the court taking place in the EU

Member States in this area. The researcher emphasised that the modern legal regulation of reconciliation of parties in administrative proceedings in Ukraine is characterised by numerous problems, in particular, fragmented regulation, lack of regulation of the stages of reconciliation of parties, lack of possibility of involving a court conciliator in the reconciliation procedure, etc. Consequently, the parties to a public-law dispute in practice rarely attempt to reconcile, and reconciliation of parties in administrative proceedings is unable to fully reveal its potential, to reveal its socio-legal significance, in particular, in the form of reducing the level of conflict in public-law relations, as well as relieving administrative courts, which has long been a pressing problem in the functioning of these courts.

O.A. Ustymenko *et al.* (2022) compared the key elements of mediation in the relevant Ukrainian legislative acts and Directive of the European Parliament and Council No. 2008/52/EC (2008). After analysing the primary requirements for the mediation process outlined in the Directive, the author compared the Law of Ukraine No. 1875-IX "On Mediation" (2021), a sectoral domestic Ukrainian regulatory law act, with the pertinent standards of codified regulatory law acts. The author concluded that the Law of Ukraine No. 1875-IX (2021) in primary provisions comply with the Directive. At the same time, the author noted that the possibility of resorting to mediation is provided for in Art. 5 of the Directive, which states that the court seized of a case may, where appropriate and with regard to all the circumstances of the case, invite the parties to mediation to resolve the dispute. The court may also invite the parties to attend an information session on the use of mediation if such sessions are held and are easily accessible. However, a definition of an "information session" or similar has not been implemented in Ukrainian legislation. Appropriate implementation, according to O.A. Ustymenko *et al.* (2022), would improve both the awareness of the parties about the range of possibilities for applying the conciliation procedure in the format of mediation and would contribute to improving the legal culture of society.

According to Sh. Peters (2021), modern Alternative Dispute Resolution (ADR) techniques and processes are more effective and beneficial than conventional schemes for managing conflicts and resolving disagreements. According to the author, the state of the art in collaborative lawyering and the skill of professional negotiators in conflict management are two factors that contribute to a more satisfying ADR procedure. In this context, well-managed conflict should result in positive change, improved relationships, and creativity; poorly managed conflict, on the other hand, may have unfortunate repercussions that jeopardise institutions, systems, and relationships. Development of an ADR culture that is founded on integrative and collaborative procedures and institutions that not only resolve disputes but also strive for the peaceful and amicable resolution of conflicts appears to be essential for society. However, Sh. Peters (2021) asserts that while there has been some progress in the EU's development of an ADR culture led by supranational organisations, Member States' implementation of the extrajudicial system has regressed when tasked with developing it significantly and naturally. The author highlighted that a directive does not address the obstacles to the adoption of ODR (Online Dispute Resolution), and it is irrational to assume that extending the scope of out-of-court dispute resolution beyond national borders will result in a significant, automatic shift in the field. The EU has a wide range of ADR cultures, with certain nations lagging in terms of self-regulation, awareness, and dedication to ADR competencies. According to reports, nations like Romania, Slovenia, Estonia, Lithuania, Latvia, and Slovakia did not benefit as much from merely enacting laws on conciliation, mediation, and the formal development of the legal framework for ADR and ODR programs.

According to B. Kas (2022), the Court of Justice of the European Union has been instrumental in supporting the EU's initiatives to provide access to high-quality alternative dispute resolution (ADR) inside the EU and in granting Member States the right to test obligatory pre-trial ADR procedures. However, a more comprehensive European-level conversation on the appropriate balance between formal and informal justice has yet to be facilitated by the Court's favourable stance towards ADR. B. Kas (2022) emphasised that currently, the EU framework encourages a multi-option system that mostly leaves it up to the parties to decide whether a dispute is settled in court or through alternative dispute resolution (ADR). Although the ELI-ENCJ Statement on Formal and Informal Justice offers a helpful place to start when imagining the role of the judge in promoting private parties' responsible use of ADR procedures, it is still unclear how ADR procedures could support the courts' core function.

Thus, ADR procedures, concepts, and implementation landscape are not homogenous, which makes the task of harmonisation of Ukrainian legislation with EU law in the field of alternative civil dispute resolution even more multi-faceted and complex, in turn, necessitating deeper research within the field and thorough analysing of existing practices of such harmonisation. Given the aforementioned, the study aimed to shape the outline of ADR theoretical foundations and investigate the practice of EU member states in the field of mechanisms and practices of ADR implementation.

Materials and methods

The study is an applied scientific legal research as it implies scientific legal research that is devoted to solving the specific applied problems in the field of jurisprudence – analysing the application of ADR in EU countries and searching the vectors of harmonisation of Ukrainian legislation in the field of ADR with the appropriate EU legislation. The study was conducted using special scientific methods. Following the overall systemic approach, the following methods were used: historical-legal, comparative-legal, formal-legal, and sociological. The systemic method was used to analyse the concept of ADR and its theoretical basis. In particular, the property of emergence was used to discuss different system levels without unnecessary complexity. At the same time, the emergent properties of the system are determined by the manifestation of special effects of interaction between the elements of the system. At the same time, a complex system contains properties that cannot be obtained from the known properties of the system elements. This approach was used to analyse implications of ADR in the EU as a whole and its specifics in individual member-states. The historical-legal method was used to investigate ADR adoption evolution and its tools development in the EU and Ukraine. The comparative-legal and formal-legal methods were used to analyse the ADR mechanisms in the EU member states. The sociological method was used to outline social and sustainable development (SD) implications of ADR programs, as well as

formulate recommendations for establishing ADR conceptual mechanisms in Ukraine within the process of legislation harmonisation.

The main research method was exploratory analysis, which was used to reveal state-of-the-art, trends, and challenges of ADR in the EU law landscape and Ukraine and creates a basis for further outlining the needs and potential vectors of harmonisation. The source base included the Directive of the European Parliament and the Council No. 2013/11/EU (2013) with amendments, the Law of Ukraine No. 1875-IX "On Mediation" (2021) and the Law of Ukraine No. 1701-IV "On Arbitration Courts" (2021), the array of ADR laws, bills, and other legislative documents defining the concept and principles of ADR in the EU member-countries.

Results and discussion

There are many different areas where laws can be harmonised. One of the crucial topics is the paradigms and processes for resolving conflicts, both inside and outside of the legal system. The European Union legal order, which is based on the rule of law and other essential values such as democracy, freedom, equality, respect for human rights, and human dignity, includes alternative dispute resolution. The goal of the Court of Justice of the European Union Court is to defend fundamental rights and ideals. In certain jurisdictions, litigants may or must use alternative or preliminary conflict resolution methods before or in lieu of requesting protection from the court.

Alternative dispute resolution methods have long been used in the practice of many countries. The continuation of the European movement chosen by Ukraine, in particular, manifested in the consolidation of legislation and the introduction of alternative dispute resolution methods. Therefore, the trends in the development of alternative dispute resolution methods can improve the legislation and protect the violated rights and interests of individuals in the court using mediation, dispute resolution with the participation of a judge, arbitration, and other alternative resolution methods (Tsuvina & Vakhonieva, 2022).

In general, the technology of alternative resolution of a legal dispute or conflict can be defined as a specially created and empirically substantiated system of methods and rules of targeted step-by-step resolution and the set of alternative forms of resolving disagreements and confrontation with a certain sequence of their application. The process of alternative conflict resolution can be divided into three stages: 1) the preparatory stage (determination of the conflict, prediction of its development and consequences, study of the positions of the parties, and selection of a method for resolving the confrontation); 2) the stage of applying the form (forms) of alternative resolution; 3) the stage of exiting the conflict and monitoring the agreed decisions.

Resolving a legal conflict, the negotiation process should include the following stages: 1) identification and determination of positions and opinions; 2) adjustment of positions for non-contradiction with legal norms; 3) description of personal characteristics of parties for further behaviour tactic development; 4) discussion, during which the parties strive to implement their positions (discussion, justification of the proposals put forward); 5) combination of interests and goals of the parties based on the law, mutual concessions and promising projects; 6) coordination of positions, development of an agreement; 7) final results (compilation of an agreement in the form of an oral or written contract, a protocol of intent, and, if the parties so desire, in the form of a legal document, validation for compliance with legal norms).

The legal nature of mediation is independence of the mediator, similarly to a judge or arbitrator, although no evidence is analysed, no facts are established, nor a decision that would be subject to compulsory execution is made. The mediator has no right to dictate the terms of the agreement or force the opposing parties to make a particular decision. The issues of the structure and individual procedures for implementing mediation should remain at the discretion of the mediator and the conflicting parties, and in the legislative order (at the regional level) it is necessary to resolve only several problems concerning the requirements imposed on professional mediators (presence of special education, appropriate license, establishment of rules of professional ethics for mediators). It is necessary to create standard provisions of a recommendatory nature that would regulate the conduct of negotiations by the parties or the settlement of a conflict with the participation of a mediator, which will stimulate their wider use.

Lawyers, legal experts, legal entities, and specialists shifted the focus, implementing and applying more informal dispute resolution procedures instead of court proceedings. These procedures are known as "alternative dispute resolution" (ADR). ADR is an umbrella term that applies to many out-of-court dispute resolution procedures. European countries also use the terms "effective dispute resolution" (EDR) and "amicable dispute resolution". Alternative dispute resolution is defined as a group of processes, which are used to resolve conflicts and disputes without resorting to the formal judicial system. ADR is typically implemented by a non-governmental body or private individual, based on the principles of voluntariness, neutrality, confidentiality, discretion, and equality (Magiera & Weib, 2014).

There is a need to change the stereotype of lawyers that provide dispute resolution services. They need to focus not only on the legal positions of the clients but also on the interests of these positions. A lawyer must be able to shift from the usual adversarial strategy to a strategy of consensus or compromise concerning the other party to the dispute, and the use of alternative methods of dispute resolution will significantly reduce the burden on the judicial system, providing positive effect and contribute to the implementation and application in practice of European standards and norms of international law (Kryshtanovych *et al.*, 2024). All these processes will contribute to the effective dissemination of a culture of peaceful dispute resolution in society, which will significantly strengthen integration processes and bring Ukrainian society closer to the European community. It is generally recognised that most ADR methods lead to a compromise, a mutually beneficial agreement between the parties. In this regard, it is noteworthy noting that ADR can provide a resolution to a dispute with no loosing part (Akhtar *et al.*, 2023). Preservation of partnership relations between the parties to the dispute is one of the most important factors contributing to the active development of ADR (Peters, 2021).

Another striking distinctive feature of ADR is the procedure of involving a neutral participant, a third party independent of the dispute, who has special knowledge in the relevant field and will conduct the settlement of the dispute. In comparison with state courts, where a specific judge accepts the dispute for consideration, regardless of the will

of the parties to the dispute, in ADR the parties themselves choose a neutral participant (a mediator, arbitrator, expert in a narrow professional field, etc., depending on the ADR procedure chosen by the parties) by reaching an agreement. This is especially relevant concerning disputes arising from narrow professional, specific areas when the involvement of an expert in the relevant field by the parties provides quick and highly competent consideration of the dispute. Kh. Yahyea (2012) emphasised that on a lateral axis, several dispute resolution techniques can be arranged as follows (Fig. 1).

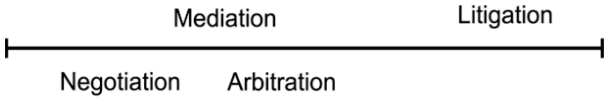

Figure 1. Conceptual forms of conflict (dispute) management

Source: Kh. Yahyea (2012)

The justice system is depicted in the figure farthest to the right. Even if the issue is dispositive, the parties have turned it over to the court, which renders a decision and effectively oversees the proceedings. Due to its prevalence, few consider negotiations to be an alternate conflict resolution approach, although it is at the far left of the axis and is also a type of ADR. The outcome of a negotiation is decided by the parties. They have complete influence over the negotiating process as well. There is no third party that renders judgments. Other ADR methods, different from negotiation, can be positioned on this axis. On the scale, they are all located far to the left. Though a verdict is issued, and the parties do not have complete control over the process, arbitration processes also fall to the left on the axis (Yahyea, 2012). On the scale, criminal and dispositive civil cases are located far to the right, as are dispositive civil cases. In this regard, it is worth noting that the division of procedural rules into obligatory, dispositive, mandatory, and optional categories reflects a power dynamic between the parties and the court. This division can also be represented by a scale that shows the respective authority over the process of the parties. The description and study of a crucial fundamental concept that is used when ADR is utilised is demonstrated in Figure 2.

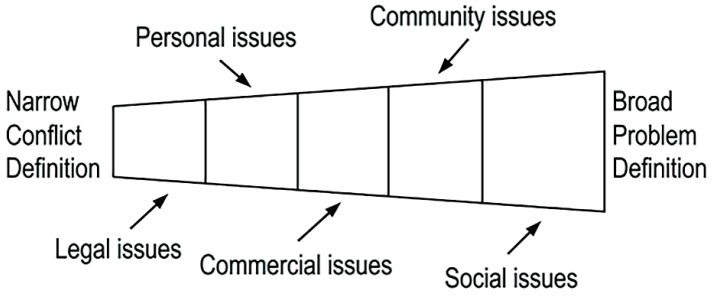

Figure 2. A "funnel" of problem definition within ADR

Source: Kh. Yahyea (2012)

The picture, reminiscent of a funnel, demonstrates how courts define problems narrowly since only situations that are relevant to the law are important. However, it is common for the problem definition to be wide when using ADR. Commercial interests, personal circumstances, the community, and occasionally even societal elements are incorporated in addition to (and sometimes not at all) legal concerns. The relevance of each of these criteria may vary according to the type of conflict (Garvey & Craver, 2021).

In contrast, a judgment is rendered in a court of law. One side prevails while the other loses. Instead of referring to wants and interests, the parties discuss rights and duties. As a result, the problem definition is limited. Except in certain rare circumstances (e.g. set off), claims must be reviewed and decided independently, making an integrated framework often unachievable, especially when the dispute encompasses many issues (Garvey & Craver, 2021). Furthermore, the dispute frequently intensifies and turns sour via the court process (Cortes, 2022). The distinction between the administration of justice and other types of conflict management is caused by the distinctions between legal procedures and alternative dispute resolution. While the administration of justice is a small subset of all that is covered under conflict management, alternative dispute resolution (ADR) denotes, among other things, the determination of parties and the legal description being broad enough for non-legal aspects to be of value. Undoubtedly, a broad problem formulation increases the negotiation zone. The term "bargaining zone" often refers to the space where parties can reach a consensus (Yahyea, 2012). Furthermore, a settlement can be achieved when a judge or mediator is aware that the case in question contains such an area.

ADR improves access to justice by being a litigant-friendly alternative to formal court processes. ADR also encourages accountability, justice, and openness, all of which support democratic government and the rule of law (Bungenberg *et al.*, 2025). Additionally, ADR is viewed as a strategy to preserve social harmony, handle disputes in culturally acceptable ways, and expand access to justice for groups that are unable or unwilling to use the legal system (Zhomartkyzy, 2023). Effective ADR programs improves quality of life and contributes to the society, stimulating sustainable development. In Europe, the adoption of alternative conflict resolution techniques has increased significantly in 50 years (Bungenberg *et al.*, 2025). Figure 3 below also supports this assertion, showing an upward trend.

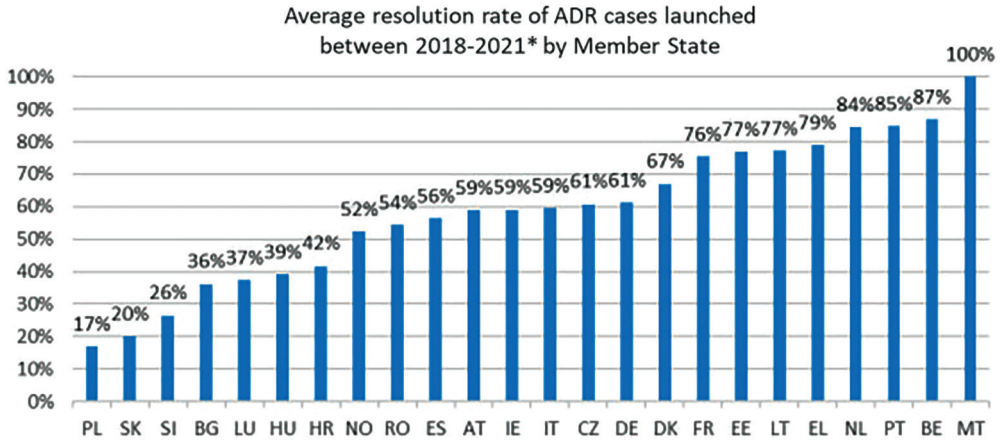

Figure 3. Dynamics of ADR cases in EU, 2018-2021

Source: D. Ashton (2024)

There have been advances at the European level in addition to those at the national level. There are three primary ADR tools in use within the European Union. These include: 1) Directive of the European Parliament and the Council No. 2008/52/EC (2008); 2) Directive of the European Parliament and the Council No. 2013/11/EU (2013); and 3) Regulation of the European Parliament and the Council No. 524/2013 (2013). Their goals are to support the internal operations of the market and guarantee access to quick, easy, affordable, and effective dispute-resolution procedures. They empower Member States with a great deal of discretion and strive for minimal uniformity. Contractual provisions in consumer or business contracts that stipulate that any disputes arising under the contract must be resolved via a relevant form of ADR, such as a mandatory ODR mechanism or arbitration scheme, are one example of how the private sector has increased its promotion of ADR in addition to official efforts (European Law Institute, 2018; de la Rosa, 2018; Biard, 2022).

ADR provisions are temporary solutions from several developments. In certain Member States (such as Italy), it is required to attempt to utilise alternative dispute resolution (ADR) methods such as mediation before pursuing formal legal action (Bartlet, 2024). Although the State in general and courts in particular encourage its use, alternative dispute resolution (ADR) is voluntary in other Member States, including the UK. Many distinct ADR bodies that are unknown to foreigners may result from such uneven development. This might thereby erode faith in these processes and their capacity to provide quick, equitable, and reasonably priced dispute resolution beyond the boundaries of Member States. Additionally, there is an increasing possibility – and in certain situations, the reality – that ADR is being developed in a way that unjustly encroaches on the proper jurisdiction of the state or government judicial branch (Warwas, 2016; European Law Institute, 2018).

According to the Law Report Commission of Ireland (2010), internal inconsistencies in current EU instruments – both those that explicitly address ADR techniques and those that indirectly involve aforementioned mechanisms – exacerbate these two problems. Specifically, they are inconsistent, both inside and within itself; they reveal a lack of awareness of the many forms of alternative dispute resolution. For instance, the most effective and least troublesome method was the Mediation Directive. Although it is restricted to a single type of ADR, it does provide a fundamental framework for disputes involving cross-border parties, including reference to the European Code of Conduct for Mediators.

Thus, for Ukraine, the process of harmonisation of legislation with EU law in the field of ADR is a challenging task, with many "variables and unknowns". In this complex landscape, research on both best practices and challenges of ADR mechanisms of EU Member States is significant. Nevertheless, EU acknowledged that courts and judges should try to include alternative dispute resolution (ADR) procedures into the justice system as complementary systems, to the degree that this is allowed under the law of the Member State (Dragos & Neaumtu, 2014; European Law Institute, 2018). Judges and courts should also try to exercise ADR practitioners, entities, and procedures a suitable level of institutional comity and respect. When referring a matter to alternative dispute resolution (ADR), courts and judges should, when appropriate, incorporate whether fair and transparent procedures are available for the parties to select an ADR provider. Before referring a dispute to an alternative dispute resolution (ADR) process outside of the court system, whether it is a court-connected ADR process or a private ADR process unrelated to the court, judges and courts should consider the process independence, quality, and suitability for the parties and the specific dispute (Knudsen & Balina, 2014). These principles are rational for introduction in Ukrainian ADR legislation since they represent the foundation of harmonisation – the concept, and vision of ADR integration into the judicial system.

Moreover, there is a range of best practices in EU countries concerning ADR, which can be used by Ukrainian legislators in developing mechanisms aimed at legislation harmonisation. Notably, mediation has become widely used in European countries, the possibility of which is enshrined in the Directive of the European Parliament and of Council No. 2008/52/EC "On Certain Aspects of Mediation in Civil and Commercial" (2008). According to the Directive, by using procedures tailored to the interests of parties, mediation can offer a quick and affordable out-of-court resolution of conflicts in civil and business situations. The voluntary agreements that come from mediation will probably keep the relations of parties friendly and stable. These

advantages become more pronounced in situations with cross-border elements. To facilitate mediation and ensure that parties resorting to mediation in resolving conflicts can rely on a predictable legal basis, it is necessary to introduce framework legislation covering key aspects of civil procedure (Tsuvina & Ferz, 2022).

Practice shows the effectiveness of mediation, and the UN General Assembly recommended that all states apply the Model Law on International Commercial Conciliation Procedure, adopted by the UN Commission on International Trade Law, and issue an unification of legislation on dispute settlement procedures in international commercial conciliation practice (Cauffman, 2018). The resolutions adopted by the UN General Assembly No. 65/283 (2011) and No. 66/291 (2012) emphasise the need to use mediatorial procedures, including mediation as an alternative to litigation.

Directive No. 2008/52/EC (2008) significantly affected the national legislation of European countries. In particular, the French Commercial Code used the definition of mediation following the European Directive and the effect of the Directive itself was extended to all commercial and corporate disputes. Italy has transposed a Directive by adopting the Legislative Decree of Italy No. 28 (2010) in the field of mediation aimed at conciliation in civil and commercial disputes. A significant feature of the Decree is the mandatory nature of mediation: in approximately 90% of commercial cases, mediation must be used by the parties as a mandatory precondition for access to justice. In turn, in Belgium, the court must offer the parties to resolve the conflict using alternative dispute resolution mechanisms. Mandatory mediation and other forms of alternative dispute resolution (ADR) are being tested in France under the Law of France No. 2016-1547 "On the Modernisation of Justice for the Twenty-First Century" (2016). For modest claims (i.e., claims of up to 5,000 EUR) or claims on neighbourhood issues, the Code of Civil Procedure of France (1976) in Article 750-1 requires that mediation or another form of alternative dispute resolution be tried before beginning court proceedings.

Even though alternative dispute resolution methods in different European countries share many common aspects, their role in the protection of rights and interaction with jurisdictional protection differ. In Poland, mediation in civil disputes was introduced by the Act of 28 June 2005 on amendments to the Polish Civil Procedure Code, which defines the rules for conducting mediation in civil disputes. Further amendments made by the law concerned both the general characteristics of the mediation procedure and the specifics of such a procedure in family and guardianship cases. Civil Procedure Code of Poland (1964) addresses such important principles for conducting mediation as the principle of voluntariness of mediation; impartiality of the mediator; confidentiality of the mediation procedure; and securing the mediator's right to remuneration. The mediation procedure is regulated in detail. For instance, following Art. 183-1 § 2 of the Code, mediation is conducted based on a mediation agreement or a relevant ruling of the court that is considering the case and may refer the parties to mediation. In the mediation agreement, the parties provide that the existing conflict or a conflict that may arise between them in the future will be resolved through mediation.

According to the Civil Procedure Code of Poland (1964), a mediator has the right to receive remuneration and reimbursement of costs associated with conducting mediation. In the event of a refusal to become a mediator free of charge, the costs are borne by the parties (Article 183). The mediation agreement can take the form of a separate document or a mediation clause in the main contract, as well as oral form in the event that one of the parties has requested to initiate the mediation procedure and the other has given its consent to such a procedure. The mandatory elements of a mediation agreement are the determination of the subject of mediation, as well as the mediator or the method of selecting such a person (Article 183-1 § 3 of the Code). A court order to refer the parties to mediation can be issued only after the commencement of the trial on the initiative of the court or upon the request of the parties (Article 183-8 § 1). In its order, the court must determine the mediator and the time during which the mediation procedure will be implemented (Article 183-10 § 1 of the Code). Therefore, there are two ways to start mediation in civil proceedings under Polish law (Article 183 § 2 and 3): mediation conducted based on an agreement and a court decision inviting the parties to participate in mediation. If one of the parties does not oppose mediation at the other party's request, an agreement may also be achieved (Lipiec, 2023; Shvetzova, 2024).

The Civil Procedure Code of Poland (1964) establishes that if a settlement agreement is concluded before the intervention of a mediator (even in contractual mediation – when mediation is conducted before the initiation of a court proceeding), the court, at the request of one of the parties, must immediately conduct a hearing aimed at approving the settlement agreement reached before the mediator (Article 183 § 1). If the settlement is to be reached through the court, it must approve it with its seal, otherwise, the settlement agreement is approved by a court decision in the courtroom (Article 183 § 2).

Hungarian legislation emphasises the principle of voluntariness and impartiality of the mediator. In turn, in Austria, there are four principles of mediation: professionalism, neutrality, result-orientation, and responsibility of the parties in resolving the dispute (Heider *et al.*, 2015). Federal states (Länder) are given the right to test preliminary ADR, including mediation, under Section 15a of the Introductory Act to the German Civil Procedure Code (2021). Legislation requiring participation in ADR programs before the initiation of court proceedings may be enacted (and has been introduced) by individual federal states. The specifics of each federal state-required ADR program are up to them to determine. This can be used to analyse various strategies (van Rhee, 2021).

Law of Spain No. 5/2012 "On Mediation in Civil and Commercial Matters" (2012) is the outcome of Directive No. 2008/52/EC "On Certain Aspects of Mediation in Civil and Commercial" (2008). However, this law and the subsequent Royal Decree of Spain No. 980/2013 (2013) did not render mediation necessary in Spain. However, there is one exception: as of November 2020, mediation is required for three types of disputes in Catalonia (but not across Spain): issues in which the parties have previously and specifically decided to submit to mediation; issues involving the custody of kids or people with disabilities; cases involving (other) family matters in which the judge directs the parties to try mediation (Palmer & Roberts, 2020). The law also permits judges to encourage parties to attempt mediation if it is deemed to be expedient or appropriate for the case in a variety of civil and business problems. For this reason, the judge has the authority to halt the matter hearing. Hence, some

judges view this encouragement as both an invitation and a (compulsory) order, requiring the parties to take part in the mediation effort. However, in the Spanish judiciary, this is a minority stance. Mediation attempts outside of family situations are often not used by Spanish civil judges (Palmer & Roberts, 2020).

The European literature does not approach mediation's objectives and purposes equally. Notably, they vary depending on the type of mediation. However, it is worth noting that the conclusion of an agreement as a solution to the dispute, as opposed to preventing its resolution, is the main goal of mediation. This thesis confirms the recognition of arguments oriented towards the solution of the problem (settlement-oriented mediation). In the European Union, where the idea of civil society is the foundation, it is believed that mediation changes the people participating in it, their positions and their relationships with other people (Zhomartkyzy, 2023). Mediation strengthens the sense of responsibility for behaviour and promotes dialogue and activism (Bartlet, 2024). The European Commission proposed updated and streamlined alternative dispute resolution regulations on October 17, 2023, to make them more applicable to digital marketplaces. To update the online and alternative dispute settlement system, the European Commission published a set of documents. Two legislative measures that remove the Online Consumer Dispute Resolution (ODR) Regulation and change the present Alternative Dispute Resolution (ADR) Directive are covered (Pinho *et al.*, 2023). The European Commission's assessment of the implementation of existing legislation and its suggestion on quality standards for dispute resolution provided by online marketplaces and trade organisations complement these legislative recommendations.

One of the fields of ADR active involvement is consumer disputes. To cover a wide range of consumer rights that might not be specifically mentioned in the contract or that pertain to pre-contractual stages where consumer rights exist regardless of whether a contract is concluded, the ADR revision aims to adapt the ADR system to digital markets (e.g. misleading advertising, missing, unclear or misleading information). To lessen the administrative burden on business owners and to cover conflicts between EU consumers and merchants from non-EU nations, the ADR Directive's material and geographic scope should be extended to encompass all forms of consumer disputes.

Notably, Dispute Resolution Processes (DRPs) are most relevant in the process of harmonisation, otherwise, legislative provisions will remain merely a conceptual form, without providing clear mechanisms (even "algorithms") for real processes of ADR. It is worth expecting that disputing parties will have access to appropriate alternative dispute resolution (ADR) procedures for every specific type of dispute that fulfils their needs and expectations about time, cost, fairness, and conclusion. Additionally, both the national courts and ADR service providers should make it obvious which ADR procedures are accessible to disputing parties, both online and offline.

As part of the special project "Support to the implementation of judicial reform in Ukraine", the Council of Europe and Ukrainian experts created the Policy Paper "Integration of Mediation into Ukrainian Court System" back in 2017. The paper aimed to further support the implementation of judicial reform in Ukraine within the framework of the European integration process. The Policy Paper states that requiring mediation in specific case categories before the court can begin considering the claim is the ostensibly simplest approach to incorporate mediation into the legal system. For instance, this scenario was first presented in Italy in 2013, and since then, the country has emerged as a leader in the number of mediations, with over 200,000 mediations reported each year (Kyselova, 2017). However, a 2002 ruling by the Constitutional Court outlawed any laws requiring compelled pre-trial conflict resolution. Article 124 of the Constitution of Ukraine (1996) was amended by the Ukrainian Parliament in June 2016 to explicitly say that "the law can establish a mandatory pre-trial dispute resolution mechanism" (Law of Ukraine No. 1401-VIII, 2016). This was part of another round of revisions. As a result, while the Constitution has approved forced mediation in Ukraine, it does not formally create such a program. Legislators can still decide whether to enact laws requiring mediation. However, given its efficacy as demonstrated by the experience of EU Member States, it is possible to determine that mediation should be implemented in Ukrainian legislation.

Mediation is one of the most often used alternative dispute (conflict) resolution techniques in Ukraine. It entails the use of a mediator who assists the disputing parties in establishing a communication process and analysing the conflict situation so that each party may independently select a resolution that will meet their requirements and interests. The current legislation of Ukraine also provides for the possibility of introducing out-of-court dispute resolution (Mazaraki, 2018).

Table 1. The possibility of introducing out-of-court dispute resolution in the current legislation of Ukraine

Out-of-court dispute resolution element	Legislation
The possibility of concluding a settlement agreement	Commercial Procedure Code of Ukraine (1991), the Civil Procedure Code of Ukraine (2004), and the Administrative Court Procedure Code (2005)
Conducting mediation	Law of Ukraine No. 1875-IX "On Mediation" (2021)
Conducting a dispute settlement procedure with the participation of a judge	Commercial Procedure Code of Ukraine (1991), the Civil Procedure Code of Ukraine (2004), and the Administrative Court Procedure Code (2005)
Conducting an arbitration procedure	Law of Ukraine No. 1701-IV "On Arbitration Courts" (2021)
Mediation as a form of restorative justice	Criminal Code of Ukraine (2001) and the Criminal Procedure Code of Ukraine (2012) provide for reconciliation between the victim and the offender in certain categories of cases
The procedure for resolving collective labour disputes	Law of Ukraine No. 137/98-VR "On the Procedure for Resolving Collective Labour Disputes (Conflicts)" (1998)

Source: compiled by the author based on N. Mazaraki (2018)

It is worth mentioning the "Dispute resolution with the participation of a judge" procedure. On 15 December 2017, amendments to the Commercial Procedure Code (2020), Civil Procedure Code (2004), and Administrative Court Procedure Code (2005) came into force, which introduced a new dispute resolution method – participation of a judge. The dispute resolution procedure with the participation of a judge is provided for by the following: chapter 4, Articles 201-205 of the Commercial Procedure Code of Ukraine (1991); Chapter 4, Articles 186-190 of the Civil Procedure Code of Ukraine (2004); Chapter 4, Articles 184-188 of the Administrative Court Procedure Code (2005).

The significance of dispute resolution with the participation of a judge, as a procedural institution, is that it is an effective means of reducing the time for consideration of the case, saves the parties from significant costs associated with the consideration of cases; the decision in the dispute, on which they have reached a peaceful settlement, is implemented voluntarily. The introduction of the institution of dispute resolution with the participation of a judge in the legislation of Ukraine should contribute to trust in the judicial authorities and strengthening the authority of justice (Shvetzova, 2024).

Dispute resolution with the participation of a judge is not mediation by the definition, but has common features and differences. The judge conducting the dispute resolution procedure must possess certain mediation techniques and skills. According to the provisions of the procedural codes, dispute resolution with the participation of a judge is done with the consent of the parties before the start of the consideration of the case on the merits. The aforementioned Policy Paper details experimental court mediation initiatives that Ukraine has implemented. The notion of voluntary mediation by external mediators is noteworthy. Both the Kyiv courts (in 2009) and Volyn courts (in 2015) adopted this paradigm. Mediators collaborate with the court administration and get training outside of the court. When it is appropriate, courts advise litigants to submit their case to an outside mediator and educate them about the mediation process. In the event that both parties consent to mediation, a mediator is selected from a list of outside mediators, available in the court. The parties present their settlement agreement before the same judge after mediation. To complete a settlement within court proceedings, there are several procedural methods available under the existing procedural codes: (1) the claimant may drop the claims; (2) the claimant may request that the court not consider the case; (3) the respondent may accept the claims in whole or in part; (4) the judge may consider the settlement when drafting a judgment; and (5) the parties may sign a settlement agreement and submit it to the judge for confirmation. The court assigned to this case decides if the parties are unable to agree to mediation (Kyselova, 2017).

The model advantages include the independence and extensive training of external mediators, which eliminates any allegations of corruption and the court's stake in certain mediation results. Nonetheless, the approach necessitates a high degree of judicial knowledge on mediation, confidence in outside mediators, and their capacity to persuade parties of the advantages of mediation and allay any worries regarding the procedure. Parties did not pay for mediation services throughout the initiative's implementation phase in pilot courts, and the project provided support to mediators. However, if donor funding is unavailable, it is unclear how mediation fees will be covered (Kyselova, 2017).

Approximately 20 organisations in Kyiv, Odesa, Lviv, Kharkiv, Vinnytsya, and other Ukrainian cities are a part of the professional community of mediators in Ukraine. These organisations have been in operation since 1995 and have significantly contributed to the spread of mediation in Ukraine through research, presentations, round tables, presentations, educational videos, websites, and mediation courses at schools and universities. However, substantial progress is to be made in this area, especially in creating more adaptable ADR formats. In this regard, it is worth analysing the experiences of nations that have previously completed the EU integration process.

The last country which became a member of the EU was Croatia. Thus, it is worth analysing the experience of this country in the harmonisation of ADR legislation. The Republic of Croatia's legal foundation for mediation was established 20 years ago on the day the new Act went into force, replacing the old and outmoded Reconciliation Act (Legal500, 2024). To provide mediators more authority and to relieve Croatian courts of cases when an amicable resolution is conceivable, the new Act introduced relevant revisions. The availability of alternative (amicable) conflict resolution should also be expanded under the new rule. The speed at which the same actions are concluded and the decrease of the costs that such court or out-of-court conflicts invariably demand is both significantly impacted by the parties' willingness to settle their differences peacefully.

A major component of Croatia's National Recovery and Resilience Plan, which was adopted to lessen the economic and social effects of the pandemic, is the new Act, which went into force on June 29, 2023 (Republic of Croatia Ministry of Justice, 2021). It improves the efficiency of judicial system to foster greater public trust. Extension of the concept of alternative dispute resolution is one of the biggest changes. Any out-of-court or judicial action in which the parties attempt to settle the disagreement by agreement, including mediation and structured conversations, is defined as alternative dispute resolution under Article 4 Paragraph 1 of the new Act (Legal500, 2024). For the first time, the terms "structured negotiations" and "mediation" are regulated as follows: (1) mediation is any process – whether conducted in a courtroom, a mediation centre, or another setting – herein the parties attempt to settle their differences amicably with the assistance of one or more mediators who assist without the power to force a final resolution; (2) structured negotiations are a legally mandated or agreed-upon process for resolving a disagreement amicably in which the parties actively attempt to reach a settlement agreement.

The requirement to use an alternate dispute resolution process before filing a lawsuit for damages is another significant change. The new Act lays forth the duty of the parties to try to settle the conflict alternately before filing a lawsuit to recover damages. Proceedings started to recover damages from the employment relationship are exempt from this responsibility. The aforementioned duty would be considered satisfied if (Legal500, 2024): the parties have failed to reach an agreement on the alternative dispute resolution process or if one party invited the other to comply with the request or to take part in the alternative dispute resolution process after informing the other party of its proposal or request along with supporting documentation, but the other party

either rejected the proposal or failed to respond within 15 days of receiving it.

The establishment of an alternate conflict resolution centre was also a significant milestone. To promote alternative dispute resolution as a more advantageous way for the parties to settle disagreements than the formal judicial one, the Alternative Dispute Resolution Centre (hereinafter the Centre) was to be established as a public institution with its registered seat in Zagreb, as required by Article 6 of the Act. Among other things, the Centre trains and develops mediators professionally, either independently or in collaboration with mediation organisations. Additionally, it guarantees efficient collaboration with court authorities and keeps up with the Register of Mediators and the Register of Mediation Institutions. Additionally, the Centre will open branches in Osijek, Rijeka, and Split, three major Croatian cities (Legal500, 2024).

Regardless of which of the functional and institutional models of ADR is adopted by a particular state, it requires substantial efforts to create a legal framework for the use of ADR. The minimum list of issues that should be regulated when creating an ADR system includes external legal framework for fixing the ADR system, including legal regulation of applicable models and the procedure for participation of parties in ADR procedures; internal rules for the implementation of ADR procedures depending on the selected model; the procedure for referring disputes for resolution through ADR procedures; correlation of ADR procedures with current legislation; determination of the conditions for the application of ADR procedures (based on the law, based on mutual contractual obligations of the parties). It is also worth noting the creation of professional standards for the administration and quality management of ADR procedures (quality standards for ADR services, standards for the sustainability of ADR application, determination of the level and nature of mediator intervention in disputes depending on the selected model, determination of the ADR implementation strategy, gender issues, time frames and cost limits for the implementation of ADR procedures concerning formal judicial procedures, etc.). If necessary, it can imply the gradation of various ADR procedures and models by types of disputes. There is also the need for creation of institutions for the management and implementation of ADR, consideration of issues of quality and professionalism of the personnel involved in the application of ADR procedures, creation of mechanisms for monitoring and evaluating ADR procedures, including the definition of performance indicators in terms of the results of applying ADR, as well as the degree of influence on improving the situation in dispute resolution as a whole, mechanisms and sequence of monitoring and evaluation, the procedure for collecting and exchanging data in the area of applying ADR procedures, etc.

There are several things to account for in selection of a dispute resolution procedure in Europe. These variables might include the type of disagreement, the intended result, the need for a quick settlement, and the associated expenses. Parties can select the best approach for their particular requirements by carefully weighing these variables (Peters, 2021). Furthermore, in Europe, the choice of conflict resolution process may be influenced by legislative and cultural factors (Elosegui *et al.*, 2021). Parties can negotiate the difficulties of settling conflicts across borders more easily if they are aware of the legal and cultural standards of other nations. Individuals and organisations may make well-informed decisions that result in successful dispute resolution by considering these elements. The scope of this article does not include the development of detailed legislative recommendations, and it was not set as an initial objective in this current research. But still outlining vectors of further efforts can be formulated.

Judges are crucial to the development of alternative dispute-resolution techniques, according to the European Commission for the Efficiency of Justice (2023). Where possible, judges should be empowered to recommend alternative methods to court proceedings to the parties, including conciliation, mediation, and negotiation. Thus, in the context of judicial dispute resolution, the judge:

- directs the dispute resolution in a way that helps the parties to resolve the dispute amicably;
- helps to resolve the dispute in a short time, without lengthy formal procedures for considering the merits of the case;
- helps the parties to reconcile while remaining neutral;
- helps the parties to jointly find their way to resolve the dispute;
- helps to interact constructively, guiding the procedure and identifying mutually beneficial or mutually acceptable options for resolving the conflict.

In the context of Ukrainian cultural dimensions, in particular, strong traditions of institutionalisation, it is worth including judges in the process of ADR, in various roles. This would make the transition period smoother and provide a perfected, "polished" effective national legislative mechanism for ADR, compliant with European legislation and traditions. It is worth mentioning the possibility of online dispute resolution (ODR). This procedure is gaining increasing popularity, given the general trends of expanding the use of information technologies in all spheres of public life. Currently, the features of ODR are associated with the use of conference calls when applying traditional methods of ADR (online mediation, online arbitration, etc.), as well as with the use of special platforms that allow individuals to conduct online negotiations to resolve their disputes. These mechanisms must also be developed in the legislation of Ukraine.

Notably, the Council of Europe, enshrining the principle of establishing truth and justice in the judicial process, supports the initiatives of member states to develop and adopt pan-European norms concerning the introduction of alternative methods of dispute resolution, namely, reconciliation, mediation, restorative justice, to achieve a balance of interests of conflicting parties. Hence, Ukraine has all chances to become a direct participant in these processes, simultaneously enhancing its ADR legislation and contributing to the EU "database" of legislative initiatives and best practices.

Conclusions

The development of suitable laws in Ukraine can be improved by incorporation of dispute resolution development experience, contrast of alternative dispute resolution (ADR) techniques in European nations. ADR can combine legal traditions and transcend national systems to establish a reliable rule of law.

In addition to lowered cost and duration of conflict resolution and improving disputants' satisfaction with the results, ADR procedures can expand access to justice for socioeconomic groups that the legal system does not properly or sufficiently serve. ADR programs may help not just the

rule of law but also other development goals, such as economic development, the expansion of Ukraine's civil society, and aid for marginalised groups, by enabling the settlement of conflicts that are impeding progress toward these objectives. This helps to build a foundation for sustainable development, which is crucial for Ukrainian European integration process. The presented case of Croatia can be incorporated to balance specifics, advantages, risks, and challenges in development of the optimal model for Ukrainian ADR legislation harmonisation with not only EU standards but, not less importantly, real EU practice.

Alternative dispute resolution programs cannot replace the official legal system. ADR programs cannot be anticipated to create legal precedents or change social and legal norms since they are tools for the application of equity rather than the rule of law. ADR programs, on the other hand, are a crucial area for harmonising Ukrainian law with EU law and can assist and supplement judicial reforms. There is an evident need for further thorough research of EU countries practice in this domain, investigation of precedents and revealing the complex of factors, determining the choice of ADR option and its effectiveness, including within interdisciplinary paradigm, employing provisions of social, cultural, and sustainable development (SD) studies.

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Conflict of interest

None.

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Гармонізація українського законодавства з правом ЄС у сфері альтернативного вирішення цивільних спорів: виклики та перспективи

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Анотація. Вибір теми для дослідження був зумовлений нагальною необхідністю гармонізації законодавства України в процесі євроінтеграції країни, а також недоліками української судової системи – великою завантаженістю судів, тривалими та складними судовими процесами, значними судовими витратами, – а також явищем продовження конфлікту в латентній формі після винесення судового рішення внаслідок розбіжності в розумінні сторонами справедливого вирішення спору. Дослідження було спрямоване на окреслення теоретичних основ альтернативного вирішення спорів та дослідження досвіду країн-членів ЄС щодо механізмів та практики їх запровадження. Показано, що збереження партнерських стосунків між сторонами спору є одним із найважливіших факторів, що сприяють активному розвитку альтернативного вирішення спорів, оскільки в той час як суди використовують вузьке визначення проблеми (лише такі обставини, які мають юридичне значення), в альтернативному вирішенні спорів застосовується широкий підхід. Як правило, враховуються не лише юридичні чинники (а іноді вони й зовсім виключаються з розгляду), а й комерційні інтереси, особисті чинники, громадські та іноді навіть соціальні фактори, що дозволяє набагато краще досягти балансу інтересів сторін. Розгляд впровадження альтернативного вирішення спорів у різних країнах ЄС, а також аналіз загального підходу ЄС у цій сфері дозволив зробити висновок, що в європейському законодавстві немає спеціальних обов'язкових положень щодо застосування таких практик у цивільних спорах, і держави-члени мають велику свободу у розробці та впровадження відповідних парадигм і моделей. Беручи до уваги українські культурні аспекти, зокрема, сильні традиції інституціоналізації, рекомендується залучати суддів до процесу альтернативного вирішення спорів у різних ролях. Це зробило б перехідний період більш плавним і дозволило б зрештою розробити досконалі, «відшліфовані» ефективні національні законодавчі механізми для альтернативного вирішення спорів, що відповідають європейському законодавству та традиціям

Ключові слова: альтернативне вирішення спорів; законодавство ЄС; узгодження законодавства; медіація; вирішення спорів у позасудовому порядку

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The problem of ineffectiveness of international legal norms in the 21st century

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Abstract. The study aimed to examine the issue of the ineffectiveness of international legal norms. This research was conducted using a combination of general scientific and specialised research methods. The historical method was employed to trace the general, persistent trend in the assessment of aggressors' actions that led to violations of international legal norms. A systemic approach was applied to identify the reasons for the ineffective implementation of international legal norms by international institutions and to analyse the behaviour of states that violate these norms. It was established that the current state of international law has been shaped by the historical evolution of the international legal order, which has been influenced by cycles of wars, revolutions, and other socio-political crises, with each preceding period concluding in the establishment of a new global order. It has been established that the absence of an international act formalising a new legal order following the dissolution of the USSR – the last significant global geopolitical crisis – provided grounds for claims advocating the restoration of "historical justice" and for engaging in expansionist and other aggressive actions against the countries that were once part of it. This legal uncertainty in the international order has created a backdrop for numerous violations of international legal norms by the Russian Federation. In Ukraine's international legal relations with other subjects of international law, two main reasons for the ineffectiveness of international legal norms have been identified. The first is the incomplete recognition of Ukraine as a sovereign state. The second is the incorporation of moral, ethical, and psychological categories into the norms of international acts as conditions for shaping the behaviour of subjects of international law – namely, states, which, as legal entities, neither possess nor can possess moral, ethical, or psychological characteristics. This study may serve as a theoretical foundation for developing an effective mechanism for the implementation of international legal norms

Keywords: international relations; legal regulation; international treaties; effectiveness of international norms; state obligations

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Introduction

The political situation and the status of cases brought in the context of the Russian Federation's crimes against Ukraine demonstrate the ineffectiveness of several international legal norms and international treaty instruments, particularly international conventions. Simultaneously, there is a view that the inability of states to conscientiously adhere to existing international law has led to numerous conflicts and political tensions. Specifically, this situation has arisen as a result of the abuse of legal mechanisms for conflict resolution (States Not adhering to international…, 2019). In situations such as prolonged armed conflicts, the crisis of the ineffectiveness of international legal norms is felt most acutely, which only intensifies human rights violations (Shapovalova & Fedorovska, 2024).

S. Hoffman *et al.* (2023) highlight the ineffectiveness of international law. The authors cite an exception for treaties governing international trade and finance, which consistently yield planned results. The process of peaceful dispute resolution, particularly through courts, is rendered insignificant, as the decisions of such courts remain unenforced when states are unwilling to comply. Such instances of ignoring international law are linked by M. Ahmad *et al.* (2024) to the contradiction between the principle of state sovereignty and the necessity for effective global governance. J. Klabbers (2017) even points to the counterproductive nature of general mechanisms of international law in ensuring respect, enforcement, and accountability of subjects of international law, including international organisations. The responsibility and oversight of their activities were also emphasised by Y. Zhukorska (2024). The researcher underscored the need to improve the international legal regulation of the responsibility of international organisations, considering their unique legal nature. Against this backdrop, the process of peaceful dispute resolution, particularly through courts, is, according to M. Štulajter (2017), rendered insignificant, as court decisions remain unenforced when states are unwilling to comply. A. Abdulkarim & I. Musa (2023) explain the problem of non-compliance by the absence of centralisation and standardisation of enforcement mechanisms, as well as the inadmissibility of limiting state sovereignty.

Ukrainian scholars V. Shcherbakov (2020) and K. Gromovenko *et al.* (2023) have expressed the view that international acts, including conventions and treaties intended to regulate international disputes between states, are practically impossible to implement in practice. D. Galchynskyi (2024) explored the interaction of conventional law with social circumstances during wartime, specifically using the example of the war between Ukraine and the Russian Federation. The author emphasised that traditional mechanisms of international law do not always align with the realities of modern armed conflicts, especially when one party systematically violates international norms. He underscores that the war in Ukraine has highlighted the weakness of international legal guarantees, as existing treaties and conventions often lack effective mechanisms for enforcing compliance. In this regard, D. Galchynskyi (2024) proposed revising the role of international institutions and approaches to the implementation of legal norms in crisis situations, which is particularly significant for assessing the problem of the ineffectiveness of international legal acts. In the context of responsibility for ecocide, this was also emphasised by N. Stasiuk (2024).

L. Denegre (2023) rightly pointed out that even with a substantial amount of research dedicated to studying the problem of the ineffectiveness of international legal regulation of state relations, particularly regarding the Russian Federation's violations in the war against Ukraine, the question of the reasons for the impotence of international norms remains open. It is worth agreeing with this conclusion and summarising the absence of fundamental scientific studies that would directly address the positioning of problematic issues related to identifying the foundations and causes of the ineffectiveness of international legal norms. In this regard, the purpose of this scientific study was to critically analyse the literature on the effectiveness of the mechanism of legal regulation of international relations, which is associated with the identification of factors and causes of the ineffectiveness of international legal acts.

Materials and methods

The study of the problem of the ineffectiveness of international legal norms was conducted within the frameworks of international legal realism and the theory of international institutions. The research was based on a critical evaluation of the mechanisms of legal regulation of international relations, particularly in the context of violations of international law by aggressor states. A combination of methods was used during the analysis to ensure a comprehensive exploration of the topic. The historical method allowed for tracing the trend of the legal development of international norms and their effectiveness in various historical periods. Its application helped to identify patterns of change in the international legal order through historical crises and transformations, which were accompanied by the conclusion of new international acts. The systemic method was used to examine the behaviour of violating states and the mechanisms of international institutions regarding the implementation of international legal norms. This approach allowed for the identification of key issues in legal enforcement and the specific features of legal uncertainty that contribute to breaches of international legal instruments.

The terminological method and the method of analysis were applied to examine the provisions of international regulatory acts and concepts such as "awareness", "aspiration (desire)", "good faith", and "self-restraint". Historical and political perspectives were used in the research to characterise the historical socio-political background, which made it possible to more clearly identify the reasons for tolerance towards the non-implementation of international norms.

The research was based on a wide range of sources, including legal documents, international treaties, and court rulings, as well as analytical reports and scholarly studies. Key documents analysed included the Geneva Convention on the Treatment of Prisoners of War (1949) and Additional Protocol to the Geneva Conventions (1977a; 1977b), as well as the Second Protocol to the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict (1999). In addition, UN resolutions, decisions of the International Court of Justice, and conclusions of international organisations regarding the implementation of international law in modern conflict situations were also utilised.

Results

The historical and political background of international legal relations as a basis for the ineffectiveness of international legal norms. Identifying the causes of the ineffectiveness of legal norms, particularly international ones, requires beginning with a description of the historically developed political environment, which is undoubtedly a fundamental element shaping law in general and international law in particular. The backdrop for states' non-compliance with their assumed obligations is the periodic transformation of the world order. Each stage concludes with the establishment of international agreements that set and legitimise a new international order and state interactions in subsequent historical periods. Notably, during periods of social and political upheaval, norms established in international acts, whether bilateral or multilateral treaties are violated more frequently. Such events in the 20th century typically culminated in the adoption of new international acts, the conclusion of new international treaties, and the establishment of a new order.

The modern world order has its origins in the Westphalian system, established in 1648. The next stage in the formation of the world order was the Congress of Vienna (1814-1815), the purpose of which was to resolve issues related to the distribution of spheres of political influence after the defeat of Napoleonic France. The victors enshrined in international agreements the restoration of monarchies overthrown by the First French Revolution, and the return of peace and tranquillity, but in doing so, they altered the borders of states on the map of Europe. This sparked revolutions and the formation of new national states in Europe. Contradictions between them became one of the causes of the destruction of the established order and the beginning of the First World War (Arendt, 1973).

With the end of the First World War, a new stage of the world order began, known as the Versailles Peace. The Versailles Treaty (1919), signed in Versailles on 28 June 1919, between the victorious states of the First World War on one side, and defeated Germany on the other, became a major cause of dissatisfaction among certain nations, their rejection of the established order, and led to the Second World War. As a result of the Second World War, the Potsdam Agreement (1945) was concluded, establishing a new world order that remained in effect until the dissolution of the Soviet Union.

A new stage in the development of the global order system is associated with the end of the Cold War and the dissolution of the Soviet Union. The collapse of one of the influential states and the attainment of independence by the former Soviet republics occurred alongside local military conflicts within the territories of the newly formed states. On one hand, these events significantly impacted the geopolitical map of the world and led to the reconfiguration of the international order. However, on the other hand – and this is a distinctive feature of this stage – the post-Soviet order was not consolidated and legitimised by corresponding international acts or treaties, but was limited to a series of local agreements: the Agreement Establishing the Commonwealth of Independent States (1991), the Alma-Ata Declaration (1991), the Treaty on Conventional Armed Forces in Europe (Adopted) (1996) (suspended by the Russian Federation in 2007), and others. The Russian Federation, as the primary "beneficiary" of the Yalta and Potsdam Conferences, guides its international relations based on the norms and principles established at the end of 1945. Thus, 1991 did not mark the beginning of a new world order.

As of 2025, the trend of armed conflicts and territorial seizures by states demonstrates that certain nations are not adhering to international rules. A state of impunity is fostered by the political decisions of international organisation leaders and other influential actors within the international community (Klabbers, 2017). The prevailing atmosphere of impunity for violations of international humanitarian law within the global community intensifies the negative impact on both those who abide by these rules and, crucially, those who breach them (Roberts, 1995; States Not Adhering to International…, 2019). The provisions of international acts, according to A.M. Slaughter *et al.* (1998), while ostensibly framed as obligations, in reality, often amount to mere promises of protection for "weaker" nations. For militarily powerful states, such as the Russian Federation, international treaty mechanisms, for example, the Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons (1994), serve merely as tools of global governance, the war in Ukraine being a stark confirmation of this. Sociological science and legal theory convincingly demonstrate that norms are effective only when not only is responsibility established for their violation but also when those who breach such norms are held accountable.

Norms of morality and ethics in international legal acts. The majority of international legal norms are codified and contained within international treaties, conventions, and declarations. An analysis of the provisions of international acts reveals that the rules of conduct for participating states are formulated based on psychological and moral categories. That is when formulating legal norms regarding the development of their decisions and conduct, states and authorities are required to "recognise" the consequences of their decisions and actions (Geneva Convention…, 1949); a demand is made for self-restraint in their actions and decisions, considering that states need to "recognise" and "refrain"; authorities must "recognise" the necessity of mercy (Convention on the Amelioration…, 1949); and shape their conduct by "aspirations" (Additional Protocols…, 1977a; 1977b) and "desires" (Geneva Convention…, 1949a; 1949b).

An analysis of the Criteria formulated and outlined in the OSCE Programme Document "Principles for Dispute Settlement", adopted at the meeting on 8 February 1991, in Valletta (Malta) (Report of the CSCE Meeting…, 1991), reveals a list of obligations that are formulated based on psychological and moral categories. Specifically, among such obligations, the drafters recorded "aspiration" for the peaceful settlement of disputes, acceptance of any procedure for peaceful settlement, and that the settlement of disputes must be based on "good faith" and cooperation. At this level, a general trend of mixing law with morality and psychology is evident.

Thus, as a result of analysing the content of international legal norms, a tendency emerges towards formulating provisions of regulatory acts or general principles for regulating conduct during wartime or in the prevention of military actions using moral-ethical and psychological categories, including: "refrain", "recognise", "good faith", "aspiration", and "desire" (Geneva Convention…, 1949a; 1949b; The Hague Convention…, 1954; Additional Protocols…, 1977a; 1977b). Furthermore, supporting and

developing the moral-ethical foundations of international law, A. Vitchenko (2022) notes the "innate necessity to be humane", V. Hrynchak (2016) mentions "self-restraint", and commissions of international experts introduce into the content of international legal documents concepts such as "desire for reconciliation" or "aspiration for peace" (Manila Declaration…, 1982). Meanwhile, the Russian Federation, a signatory to nearly all international conventions and a formal guarantor of compliance with international acts (On the eve of the Ukrainian Peace Summit…, 2024), effectively disregards the requirements of international acts while simultaneously demanding their observance from the defending state.

Reasons for the ineffectiveness of international norms. The first reason for the ineffectiveness of international norms lies in the lack of acceptance of Ukraine as an equal partner and subject of international relations and law. The status of a subject of international relations and law, according to I. Kuyan (2013) is based on such legal and political characteristics of a state as sovereignty. Ukraine's sovereignty, according to V. Kholod (2006), in international relations, consists of the Ukrainian state's realisation of the full extent of its power in all spheres of foreign policy activity, independence from the influence of other states or their associations, in the determination and implementation of foreign policy, and non-subordination to any foreign authority.

This is a theory that could be put into practice if other subjects of international relations recognise the state as a legitimate holder of sovereignty. If one examines the practical implementation of Ukraine's external sovereignty, it is evident that after the dissolution of the Soviet Union, Ukraine was not perceived as an equal partner. This was because Ukraine was viewed within the global community through the lens of the Russian Federation's interests. By the mid-2000s, this perspective began to influence political decision-making by European and U.S. leaders. This is evidenced by the statements of the prominent U.S. political figure and former National Security Advisor to President Jimmy Carter, Zbigniew Brzezinski. In his analysis of the state of world politics after the Cold War, Z. Brzezinski (2000) described the loss of Ukraine for the Russian Federation as "the greatest political disappointment", which became "a moment of profound concern". This highlights, on one hand, the geopolitical realities, and on the other, the attitude of the geopolitical elite towards Ukraine: "disappointment" and "concern". In such assessments, Z. Brzezinski (2000) reveals a solidarity with the ideologue of Russian policy, A. Dugin (1999).

It is noteworthy that both authors, although representing states with differing geopolitical interests, perceived Ukraine through a similar lens, namely as a "disappointment", a "moment", and a "negative phenomenon". Such a reflection of the views of the geopolitical elite regarding Ukraine can be interpreted as a perception of an entity that lacks its own political or legal will and capacity, and whose fate can be decided without significant regard for its vision of the future. Essentially, according to Zh. Zavalna (2022) and Zh. Zavalna and M. Starinskyi (2023), this perspective on Ukraine as an object of international relations became a precondition and basis for the failure of signatory states, not just the Russian Federation, to fulfil the "assurances" outlined in the Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons (1994). (Unlike a treaty or agreement, a memorandum does not have legal force, which is why it is more appropriate to refer to "assurances" rather than obligations reflected in the terms of this document).

Considering the positioned political realities, and as historical facts demonstrate, the Russian Federation, as a state with a low level of rule of law, does not and will not adhere to the requirements of international legal norms in the context of recognising the sovereign territories of neighbouring states that are weaker both politically and militarily. Accordingly, the aggressor state appeals to the demonstration of military force and employs it repeatedly in the modern era (the occupation of parts of Moldova in 1992, parts of Georgia in 2008, and parts of Ukraine in 2014). Based on a historical analysis of the contemporary policy of the Russian Federation, a general trend in the behaviour of the country's military-political leadership can be observed: international conventions, in particular, and international rules in general, are neither perceived nor implemented. Moreover, the country simply refuses to comply with them (Kryachok, 2024). This historical and socio-political backdrop forms the legal problem of the ineffectiveness of international legal norms.

The second reason for the ineffectiveness of international legal norms is the incorrect formulation of provisions, specifically the introduction of moral and ethical concepts into regulatory acts that are not supported or secured by a legal mechanism for their implementation. There is a flawed notion that international legal norms are implemented "on their own" and do not impinge upon state interests, nor do they require any effort in their execution, as such a regime is already established in international norms. That is, international law is considered "self-sufficient" through the formulation of norms that operate automatically by the desire of the subjects of international law. However, they are not ideal actors who agree to all restrictions and prohibitions solely based on their own "recognition" and "refraining" from certain actions, "good faith" application of international legal norms, and "aspiration (desire)" for positive outcomes for the UN, OSCE, or other states.

Based on the formulations of the aforementioned international regulatory norms, it is worth noting that the concepts are framed as moral and ethical requirements, which are and should be the basis of every legal act but extend somewhat beyond the scope of legal regulation. Such formulations are appeals to the individual moral qualities of the implementing state representative. However, the question arises regarding the correspondence of the individual characteristics of the ruling elite to the aggregate of necessary moral and ethical values proclaimed in international law. In such a case, the problem arises whether this means that such individuals (heads of state, heads of international organisations) are not required to "refrain" or "desire" the outcomes demanded of them by international legal norms. A similar logic may also contradict the worldview and ideological factors that determine the behaviour of political actors. In particular, according to the traditions of post-Soviet legal jurisprudence, it becomes possible to explain the rejection and nonimplementation of international legal norms by the Russian Federation. This is because the bearers of professional legal consciousness (including representatives of the ruling elite in the Russian Federation) are bearers of an eclectic, including Marxist-Leninist, ideology (Bailey, 2022). Through this lens, the ruling elite of the aggressor state, as well as its entire society, may perceive non-compliance with international legal norms based on the principle that "anything not

explicitly prohibited can be disregarded", or in other words, that regulatory acts must use normative instruments of influence that ensure normative force.

The problem of implementing international legal norms also lies in the fact that, as a rule, conventions, international treaties, and agreements derive their legal force from the willingness of the subjects of international law themselves to limit their sovereignty and accept those behavioural restrictions that were the "recognition" of the need to "refrain" from certain actions or to fulfil the "desire" of another subject of international law. At the level of a state's national legal system, such force of a regulatory act is secured by a legal mechanism for regulating relations, which specifies sanctions of liability, with imperative norms establishing the jurisdictional and non-jurisdictional nature of the consequences of non-compliance (non-implementation) with the norms. At the level of international law, most international acts secure their legal force not through imperative authority (external authoritative force), but through their own consent and disposition to engage in a certain type of behaviour, aimed at a willingness to "recognise" the interests of others and a desire to yield in the pursuit of their own interests.

Discussion

Ukrainian researchers of international law, V. Kyrgizova and I. Maryniv (2022), in a somewhat romantic vein, emphasise the need for "…understanding that in the implementation of the common will and cooperation it is possible to achieve a solution to the international problems, to achieve the common interest, and not to meet the current economic needs of each state separately, will allow solving many global problems of our time". I. Hetman-Pyatkovska (2015) also calls for faith in the moral value of international law, which is the basis of its effectiveness, and expresses hope for the efficacy of international legal means based on the reasonableness and good faith of the aggressor. Another approach is hard realism. In these circumstances, two problems intersect: 1) adherence to national legal norms through the demonstration of a state's external sovereignty and its acceptance by other subjects of international law; 2) adherence by a state to international legal norms, together with moral-ethical values, through concessions and the relinquishment of a portion of its sovereignty and interests.

To maintain a balance between these positioned contradictions, subjects of international legal relations constantly resort to certain not entirely bona fide practices, which fully correspond to the socio-political backdrop outlined above. Sovereignty, as A. Guzman (2011) notes, until a certain period in the development of international law, required states to consent to obligations in treaty relations. In the 21st century, according to A. Korynevich (2015), M. Evangelista and G. Tannenwald (2017), and Zh. Zavalna and M. Starinskyi (2023) systematically avoid formalising their agreements with treaties, preferring to sign memoranda and other documents that lack legal force. Thus, states do not include legal mechanisms for ensuring their implementation in their own relations. The view of A. Guzman (2005) is valid, who notes that states prefer to utilise "soft law" mechanisms, which make their agreements less reliable and, therefore, easier to violate. The substitution of consent, as a binding legal element, in the legal construction of international legal obligations, with "soft law" recommendations conveyed through moral-ethical categories such as "recognition", "aspiration", "desire", "self-restraint", and "good faith", replaces the very essence of bilateral obligations with unilateral obligations that have possible variations for a state to assume or reject its own obligations. An analysis of these categories from the perspective of the legal regulation of international state relations can become one of the main arguments to substantiate the ineffectiveness of international legal acts.

In psychology, "awareness" is considered a phenomenon that is the process of perceiving, understanding, and interpreting information that reaches human consciousness. O. Dolska (2024) proposes that "awareness" be considered a psychological term that includes the description of the formation of meanings through consciousness, bodily sensations, and an understanding of the methodology of meaning formation and its comprehension. N. Volanyuk *et al.* (2019) believe that the category of "awareness" also belongs to social psychology when it comes to the specifics of interaction and communication between groups in society. However, "awareness" is not inherent to a state as a subject of legal relations. This is confirmed by an analysis of scientific research in the field of legal theory and specific branches of law. Thus, "awareness", according to O. Reznik (2006), in constitutional law, is defined by the framework of discussing the identification of citizens with a particular state, while research in other branches of law is reduced to legal consciousness (Makarenko, 2018), to awareness of one's rights (Khazhynskyi, 2011), and, according to G. Klimova (2012), to the duties of natural persons as subjects of law. Therefore, when the requirement to "recognise" the consequences of their actions and conduct is introduced into international legal norms for states, it is not actually about the state, but about a specific official – a representative of the state – who must recognise and bear the full burden of legal responsibility for a lack of awareness and non-compliance with international legal norms.

"Aspiration (desire)" is a part of international legal norms and is the result of the imagination of powerful states regarding the necessity to legally regulate the use of force and, thus, prevent civilian casualties and destruction, and aim for the establishment of a just and sustainable peace after a conflict (Trenkov-Wermuth, 2011). According to international norms, before the commencement of the Russian Federation's full-scale invasion of Ukraine, V. Hrynchak (2016) emphasised that a state must have an aspiration (desire) for peace. Research by B. Prokhonsky and H. Yavorska (2022) reveals entirely opposite tendencies, namely, speaking of the necessity to develop effective means of countering hybrid or terrorist wars, which are practically a combination of military actions and covert operations.

Therefore, it is difficult to agree with the application of the concept and category of "aspiration (desire)" in the legal regulation of the activity of a subject such as a state, since "aspiration (desire)" is an internal psychological state of a subject, inherent to it by its very nature. Conversely, a state, as a subject, can have a clearly formulated and expressed state policy, which reflects its possible steps and planned behaviour, rather than feelings, emotions, and other characteristics uncharacteristic of this subject.

"Self-restraint" is a volitional category, which is part of a subject's independent determination of its status for itself. As with the analysis of previous categories, it is worth noting that "self-restraint" is a psychological category based on cognitive and volitional aspects. When self-restraint is

discussed in legal theory, it primarily refers, according to D. Petsa (2020), to the problem of self-restraint of state power, which must be transferred to civil society, thereby protecting it from possible arbitrary actions by the state.

In the doctrine of international law, self-restraint is perceived as a set of volitional efforts aimed at limiting one's own interests through compliance with the requirements of international legal norms. The foundation of self-restraint, as V. Hrynchak (2016) rightly notes, is the mutual respect of all parties for the sovereign rights (sovereignty) of the other party and for the requirements of international legal norms, although the author himself rightly argues that a state will under no circumstances forgo possible advantages, nor will it voluntarily limit its sovereign rights. The formation of such an internal conviction state can be achieved through political, economic, organisational, and diplomatic means, which do not fall within the legal domain. Therefore, the codification of norms expressed in psychological categories should be considered, as M. Starynskyi (2017) does, as a neutralisation of legal norms or the impotence of dispositive measures and means of regulation.

"Good faith", while a principle of legal regulation of legal relations, is also based on and derives from the psychological foundations of behaviour. The use of legal and contractual means of regulation "for show" or fictitiously, that is, merely to manifest the external performance of political-legal rituals (treaties, agreements, consultations, etc., those required in diplomatic circles, which, when used for non-targeted purposes, become ritualised practices). It is the adherence to formal requirements of international legal norms regarding the implementation of a certain order and procedures, without aiming to achieve a positive outcome, that transforms into an empty, ineffective ritual. For example, a state's consent to participate in direct negotiations does not always imply, according to V. Hrynchak (2016), goal-setting towards dispute resolution. Similarly, direct participation in the negotiation process does not prevent a party acting in bad faith from achieving its own goals by merely declaring its good faith and monitoring the other party's bona fide compliance with contractual provisions or conditions.

Bad faith conduct in the conclusion and implementation of bilateral agreements has become a historical tradition in relations between the Russian Federation and Ukraine. Two of the most glaring historical examples of the aggressor state's "bad faith", which demonstrated the ineffectiveness of norms enshrining the principle of good faith, are: the conclusion and signing of the Minsk agreements of 2014-2015, aimed at the peaceful resolution of the military conflict (Full text of the Minsk agreement, 2015), when the ceasefire requirement was adhered to only by the Ukrainian side (Protocol Based on the Results of Consultations…, 2014; A set of measures for the implementation…, 2015). In neither the first nor the second case did the Russian Federation initially aim to achieve the goals typically achieved through the conclusion of treaties – a balance of interests between the parties in contractual relations. Instead, the aggressor state used the means of contractual regulation in bad faith to maintain, strengthen, and secure its own interests. That is, building a legal mechanism based on the expectation that the aggressor state will exercise "selfrestraint" based on adherence to "good faith" in relations with a state whose sovereignty it does not recognise is, to put it mildly, unrealistic.

It is a generally accepted position in legal theory that morality must be separated from law, and their mechanisms of action and guarantees must be distinguished. It is understood that the focus of international law on protecting universal human values requires the specification of the general direction of action and implementation of international legal norms. It is worth agreeing with the necessity of outlining the general principles of international law based on moral-ethical values. However, at the same time, building mechanisms of legal regulation based on the expectation that states (subjects that do not and cannot possess psychology and morality) will fulfil moral and ethical requirements through appeals to feelings and emotions appears to contradict the very nature and functions of legal regulation and law in general.

Thus, provisions containing moral and ethical categories in international regulatory legal norms, as well as requirements to build relations in good faith, do not ensure the implementation of international legal acts by subjects of international law, especially when they are representatives of an aggressor state. Furthermore, the formulation of international legal norms in moral-psychological categories and the call to engage emotions and feelings when making decisions regarding states as subjects of international law are, from a legal standpoint, formulated in a way that contradicts both formal logic and normative (positivist) theories of legal understanding. That is, all psychological and moral categories describe the internal realm of an individual's existence (a ruler, a representative of state authorities) but in no way describe a state as a subject of international law. As is well known, moral and ethical means and instruments of influence are not means and instruments of the mechanism of legal regulation in either national or international law.

Conclusions

This study aimed to identify the reasons for the ineffectiveness of international legal norms. The research established that the current state of the international legal order, which is the result of a combination of historical and political factors, has in turn formed the basis for a long-standing culture of condescension among the economic and geopolitical elite towards the necessity of applying international legal norms when dealing with "weaker" nations. The lack of an effective response from international institutions and powerful states has led to the failure to hold violators of international legal norms accountable. This demonstrates the ineffectiveness of the legal mechanism for implementing international norms and also highlights the futility, rather than the groundlessness, of the expectations of the Ukrainian leadership and society for the application of international legal acts.

The legal reason for the ineffectiveness of international legal norms is the introduction of moral-ethical categories into these norms through appeals to the feelings and emotions of subjects of international law, who by their nature possess neither morality nor psychology. This manifests an illogical architecture of international acts at the formal level and embeds within their very essence the impossibility of their practical implementation. International law is largely based on categories of "good faith", "self-restraint", "awareness", and "aspiration (desire)", which, while important in interpersonal and social interactions, cannot be effective regulators of state behaviour.

The analysis of regulatory acts has revealed a conflation of legal and moral-ethical categories in international law,

which creates difficulties in their application. Requirements to "recognise" or "aspire" to peace cannot be legal norms, as states, unlike natural persons, do not possess psychological consciousness or moral imperatives. These terms lack binding legal force and leave room for subjective interpretation, which, in turn, weakens the mechanisms for holding violators accountable. Another crucial aspect is the insufficient recognition of Ukraine as a fullyfledged subject of international law. This has manifested, notably, in the non-compliance with the provisions of the Budapest Memorandum and the ineffectiveness of international pressure mechanisms on the aggressor.

Therefore, a terminological re-evaluation of key international legal norms is necessary to avoid legal uncertainty. Concepts must be clearly defined and leave no room for arbitrary interpretation. To achieve this, the imperative nature of international norms should be strengthened, and mechanisms for their strict enforcement should be developed.

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Conflict of interest

None.

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Проблема недієвості міжнародно правових норм в XXI столітті

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Анотація. Мета дослідження полягала у дослідженні проблеми недієвості норм міжнародного права. Дане дослідження здійснювалось із застосуванням сукупності загально-наукових та спеціальних методів дослідження. Історичний метод був використаний задля відслідковування загальної сталої тенденції оцінки дій агресорів, які призводили на порушення норм міжнародних актів. Системний підхід застосовано при розгляді питання виявлення причин неефективної реалізації норм міжнародного права міжнародними інституціями та дослідження поведінки держав порушниць норм міжнародного права. Було виявлено, що основою для нинішнього стану міжнародного права стала історична змінюваність міжнародно-правового порядку, який формувався під впливом чергування війн, революцій та інших соціально-політичних криз та укладенням в кінці кожного старого періоду закріплення нового світового порядку. Виявлено, що відсутність міжнародного акту, в якому б оформлювався новий правовий порядок після розпаду СРСР – останньої із вагомих світових геополітичних криз – дала основу для заяв про необхідність відновлення «історичної справедливості» і здійснювати загарбницькі та інші агресивні дії проти країн, які входили до її складу. Така правова невизначеність міжнародного порядку стала тлом для численних порушень норм міжнародних актів з боку РФ. У міжнародно-правових відносинах України із іншими суб'єктами міжнародного права фону проявляються дві причини недієвості норм міжнародних актів. Перша причина – це неповне сприйняття України як суверенної держави. Друга – застосування в нормах міжнародних актів морально-етичних та психологічних категорій як умов для формування поведінки суб'єкта міжнародного права, а саме держави, яка як суб'єкт права не має і не може мати морально-етичних та психологічних характеристик. Дослідження може бути використане як теоретична основа для створення ефективного механізму дії норм міжнародних актів

Ключові слова: міжнародні відносини; правове регулювання; міжнародні договори; ефективність міжнародних норм; зобов'язання держав

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