UDC 347.1+347.6+349.2
DOI: 10.32518/sals3.2025.59

Соціально-правові студії. 2025. Т. 8, № 3
Social & Legal Studios. 2025. Vol. 8, No. 3

Person's declaration as deceased: Problem aspects in civil, labour, and family legal relations

Roman Demkiv*
PhD in Law, Associate Professor
Lviv State University of Internal Affairs
79007, 26 Horodotska Str., Lviv, Ukraine
https://orcid.org/0000-0003-3867-7968

Nataliia Grabar
PhD in Law, Associate Professor
Lviv State University of Internal Affairs
79007, 26 Horodotska Str., Lviv, Ukraine
https://orcid.org/0000-0001-5533-6765

Rostyslav Boryslavskyi
PhD in Law, Associate Professor
Lviv State University of Internal Affairs
79007, 26 Horodotska Str., Lviv, Ukraine
https://orcid.org/0000-0001-8941-7942

Iryna Skovronska
PhD in Philological Sciences, Associate Professor
Lviv State University of Internal Affairs
79007, 26 Horodotska Str., Lviv, Ukraine
https://orcid.org/0000-0002-6261-3393

Abstract. The discourse on post-human rights is transforming the very paradigm of both the legal determination of a person's death and the attitude towards its implications. Considering the current state and vectors of development in the legal understanding and relevant legislative provisions for declaring a person dead has become an extremely urgent task of a scientific and practical nature. Research into the legal aspects of human death allows for an expansion of knowledge about the relationships and connections that exist in society. Based on the bibliographic method of analysis, as well as comparative legal and logical methods, the study examines the post-human concept of recognising and declaring a person dead, as well as the rights of a person declared dead, particularly within the frameworks of the will theory and the interest theory. It is shown that these two theories, within the post-human paradigm, stand in a certain degree of contradiction to one another. In the context of the legal systems and traditions of different countries, the civil law consequences of declaring a natural person dead are analysed, and the peculiarities of altering or terminating property and personal non-property legal relations as a result of such declaration are considered. It is emphasised that the philosophical foundations of the concept of "rights" must be taken into account when determining the legal consequences of declaring a person dead – in particular, posthumous legal rights constitute one of the core vectors of such consideration. A conceptual framework for the rights of the deceased is proposed, taking into account the post-human trajectory in the development of legal concepts of human rights. The results of the study broaden the array of components within the legal understanding of human death as a legal fact, as well as its legal consequences

Keywords: legal status; rights; post-human concept of human rights; will theory; interest theory; civil death

Suggested Citation

Article's History: Received: 05.06.2025 Revised: 08.09.2025 Accepted: 06.10.2025

Demkiv, R., Grabar, N., Boryslavskyi, R., & Skovronska, I. (2025). Person's declaration as deceased: Problem aspects in civil, labour, and family legal relations. *Social & Legal Studios*, 8(3), 59-69. doi: 10.32518/sals3.2025.59.

*Corresponding author

Introduction

As of 2025, the legal understanding of death continues to be a crucial aspect of both civil and human rights discourse. The issue has gained renewed importance due to rapid scientific progress, global conflicts, and biotechnological developments that have blurred the traditional boundaries between life and death. For Ukraine, the ongoing war has intensified the need to establish clear legal mechanisms for declaring individuals deceased, especially those who have gone missing in combat or under occupation. Determining legal death is essential for ensuring the protection of property rights, family relations, and social guarantees. Beyond national boundaries, the problem reflects broader philosophical and ethical challenges regarding the status of the individual after death and the scope of posthumous rights. Therefore, studying the legal consequences of declaring a person deceased holds both theoretical and practical significance for modern jurisprudence and human rights systems.

Recent legal scholarship has addressed the complexity of defining and regulating death within contemporary law. M. Trabsky (2024) examined how 21st century legal systems reify the meaning of death under the influence of biotechnological and economic factors, arguing that advances in medical technologies disrupt traditional legal epistemologies. The author emphasises the need for an interdisciplinary approach that integrates law, ethics, and medicine. In Ukraine, A. Klychkov (2020) analysed the civil-law consequences of recognising an individual as missing and declaring them deceased, noting the limited scope of existing judicial practice and the need to refine legal mechanisms for terminating or restoring personal and property rights.

J.A. Chandler and T.M. Pope (2023) explored the Canadian legal definition of death in the context of the Brain-Based Definition of Death Guidelines, highlighting discrepancies between medical practice and statutory provisions. They argued that equality and religious freedom under the Canadian Charter necessitate greater clarity in diagnosing brain death. Similarly, J.D. Dinneen *et al.* (2023) investigated the intersection between death and information management, identifying ethical and legal tensions in handling digital inheritance, posthumous data, and digital immortality. Their findings illustrate how technological change generates new forms of post-death legal identity. E. Wicks (2017) emphasised that the absence of a statutory definition of death in England has led to reliance on medical guidelines recognising brainstem failure as the determinant of death. These professional norms, while effective in practice, underscore the importance of a coherent legal codification.

Further comparative insights reveal diverse approaches to post-mortem rights and their civil consequences. J. Bowen (2022) analysed the interest theory of rights, arguing that certain legal interests – such as reputation or familial welfare – may persist beyond biological death. V. Kurki (2021) supported this view, asserting that posthumous rights derive from the enduring moral and legal interests of individuals, which legislatures are increasingly recognising. K. Falconer (2020) expanded this discussion by linking the interests of the living and the dead, proposing that the regulation of posthumous rights reflects evolving social norms of dignity and respect.

Research in civil and family law further demonstrates that the declaration of death affects inheritance, property, and labour relations. J. Payne & M. Payne (2022) examined how Canadian legislation distinguishes between married and unmarried partners in succession rights, while N. Fera (2024) discussed the limits of testamentary freedom under the Family Law Act (1986). Comparative analyses by M. Bear (2023) show that in the United Kingdom and Commonwealth jurisdictions, the termination of employment upon death remains governed by common-law principles, though questions concerning compensation and severance persist. Similar studies have been conducted by N. Smith & D. Plaatjies (2024).

Within the Ukrainian context, legislative amendments in 2022 and 2023 (Law of Ukraine No. 2217-IX, 2022; Law of Ukraine No. 2345-IX, 2022) simplified procedures for registering deaths in wartime and temporarily occupied territories. However, practical implementation revealed significant difficulties concerning judicial verification, evidentiary standards, and the recognition of foreign death certificates. These challenges illustrate the need for systemic improvement in civil, family, and labour legislation to ensure coherence with international norms and human rights principles (Kryshtanovych *et al.*, 2024).

This study aimed to determine the legal grounds and consequences of declaring an individual deceased within the framework of civil, family, and labour law, taking into account comparative international experience. The research seeks to clarify the relationship between legal death and posthumous rights, assess the adequacy of Ukrainian legislation, and formulate proposals for its modernisation in light of wartime conditions and the post-human rights discourse.

Materials and methods

This study employed a multidisciplinary approach, focusing on legal, sociological, and historical perspectives. Conceptually, it was grounded in theories of post-human rights, which emphasise the legal interests and rights that may persist after death, thus extending traditional legal paradigms. The methodology combined several specialised legal methods, including comparative legal analysis, formal-legal analysis, and doctrinal methods. The comparative legal method was applied to examine similarities and differences in how various jurisdictions handle the declaration of death. This approach enabled the identification of common legal standards and distinctions across national legal systems. The formal-legal method was crucial for analysing statutory provisions and court decisions related to the status of individuals declared deceased, as well as for understanding the procedural norms governing death declarations in different jurisdictions.

A key method employed was grounded theory, which facilitated the identification of relevant categories and patterns from existing literature and case law. Through this approach, secondary sources were systematically analysed. Historical analysis was used to trace the evolution of the legal institution of declaring a person deceased, focusing on the historical development of civil law relating to death. The study drew on a diverse range of primary and secondary sources. Legislative documents, such as national laws and international treaties, were of particular importance. For instance, Ukrainian legislation on declaring a person dead, including the Civil Code of Ukraine (2003), was analysed in depth to understand the domestic procedural framework. Additionally, international legal instruments and court decisions were examined to compare practices and outcomes (Judgment of the United Kingdom Court of Exchequer, 1867; Judgment of the United Kingdom Appeal Tribunal, 1999).

With regard to methodology, content analysis was used to systematically review relevant legal texts, identifying trends in how death is legally conceptualised and managed across different legal systems. Furthermore, comparative law was applied to assess the impact of death declarations on inheritance rights, personal relationships, and posthumous legal recognition in countries such as the USA, the UK, and Ukraine. This methodological framework enabled the development of a comprehensive model for understanding the legal dimensions of death declarations.

Results and Discussion

Circumstances of declaring death. It is useful to outline several situations in which the moment of death acquires legal relevance, in order to demonstrate the practical necessity of establishing the exact time of death. When a person is legally declared dead, their assets fall under the control of the executor designated in their will, who has the authority to manage or dispose of them in accordance with the testamentary provisions. In cases where two or more individuals die in close succession, and one has left a will in favour of another, it becomes essential to determine who predeceased whom. The beneficiary under the will cannot benefit from it if they are found to have died earlier – a rule commonly recognised in many national legal systems (Sitkoff & Dukeminier, 2021).

According to Ukrainian legislation, an individual may be declared deceased only on the basis of a court decision. Thus, according to Article 46 of the Civil Code of Ukraine (2003), an individual may be declared dead by a court if:

- no information has been received regarding their whereabouts at their permanent place of residence for three years;
- they went missing under circumstances posing a threat to life or giving reasonable grounds to presume death as a result of a particular accident – within six months;
- it is possible to consider an individual dead as a result of an accident or other circumstances arising from man-made or natural emergencies – within one month after the completion of the work of a special commission established in connection with such emergencies.

A person who goes missing in connection with military actions or an armed conflict may be declared dead by a court after two years have elapsed since the end of the hostilities (Kryshtanovych *et al.*, 2022). Taking into account the specific circumstances of the case, the court may declare an individual dead before the expiry of this period, but not earlier than six months after the disappearance. The legal consequences of declaring an individual deceased are equivalent to those that arise in the event of actual death. However, the heirs of an individual declared dead are prohibited from alienating any real estate inherited by them for a period of five years from the opening of the inheritance. The notary who issues the heir with a certificate of inheritance to real estate must impose a prohibition on its alienation. If it transpires that an individual declared dead is alive, this entails certain legal consequences as provided in Article 48 of the Civil Code of Ukraine (2003). According to this article, if a person who has been declared dead reappears, or information is received regarding their whereabouts, the court at the location of that person, or the court that issued the declaration, shall, upon the application of the person concerned or another interested party, annul the decision declaring the individual dead. Article 309 of the Civil Procedure Code of Ukraine (2004) stipulates that the court shall schedule a hearing with the participation of the individual declared dead, the applicant, and other interested parties. Accordingly, the personal presence of the individual concerned at the court hearing is mandatory.

Article 48 of the Civil Code of Ukraine (2003) also contains provisions aimed at deterring fraud, stipulating that if a person who obtained property under a compensatory contract was aware that the individual declared dead was in fact alive, such property must be returned. In some countries, such as France, recognising a person as missing and declaring them dead constitute two stages of a single process. In Ukraine, by contrast, these are similar procedures but distinct legal concepts, as the grounds for their application and their legal consequences differ.

Living will and the meaning of death. In a different context, the issue of determining the moment of death also becomes significant within the medical and societal spheres. The question arises regarding the appropriate duration for which physicians should employ artificial interventions to sustain life in patients who are in a deep coma with a prognosis of permanence and incurability. In such cases, consideration must be given as to whether life-sustaining measures should continue when there is no realistic prospect of the brain regaining its normal functions. The medical community is immediately confronted with this challenge, but, like many other medical dilemmas, it eventually affects and concerns society at large as well (Pope, 2018). Although the medical approaches used in these situations may differ, they essentially consist of prolonging life, even though the patient's mental abilities may never fully recover.

The issue raised in the previous paragraph has been addressed by specific laws in several countries. Although there is a wealth of literature on the topic, it is sufficient to cite Black's Law Dictionary (1990), which defines the concept of a "living will", adopted in various US states: "Living Will. A document which governs the withholding or withdrawal of life-sustaining treatment from an individual in the event of an incurable or irreversible condition that will cause death within a relatively short time, and when such a person is no longer able to make decisions regarding his or her medical treatment. Living Wills are permitted by statute in most states". The case of Cruzan v. Director, Missouri Department of Health (1990) established several significant precedents: it was determined that the Constitution did not provide a right to die. It also outlined the requirements for a third party to refuse medical treatment on behalf of an incompetent individual. According to the case, before a family may remove an incompetent person from life support, the state may require clear and convincing evidence of that person's wish to cease life-sustaining treatment.

The legal definition of death remains unstatutory in England; however, the issue is managed according to professional standards that have proven effective in practice. In 1976, the Medical Royal Colleges and their Faculties in the United Kingdom issued guidelines detailing the criteria for determining brain death, focusing specifically on the irreversible loss of brainstem function, with certain conditions to be avoided in the process (Wicks, 2017). Three years later, in 1979, these same medical bodies declared that death could be determined by the cessation of brainstem activity. The Department of Health in the UK recognised these criteria as authoritative and adopted them officially. Over time, these guidelines have gained widespread acceptance within the medical community, not only in the UK but also internationally, where they have influenced the understanding and practice of determining death.

Certifying the fact of death. Generally, the system for recording and certifying death includes: first, the bodies, organisations, and officials authorised to record and confirm these facts; second, the means of recording and procedural actions established by law (issuing orders, making entries in employment records or personal files, drawing up death certificates, registering death in official journals, etc.); and third, procedures for issuing information about death. It follows that the death of a person, in terms of legal regulation, constitutes the occurrence of consequences prescribed by law. In this sense, death is not limited to physical or biological confirmation. As the legal grounds for death, a number of authors (Norman, 2021; Bowen, 2022) propose to identify, firstly, the occurrence of biological death, certified by a medical practitioner; secondly, the judicial determination of the absence of a person and of any information about their whereabouts for several years; and thirdly, the judicial confirmation that a person went missing under circumstances threatening death or giving reason to presume their death as the result of a specific accident, accompanied by the person's absence for several months (Trabsky & Jones, 2024).

At the same time, the legal systems of Great Britain and the United States classify the issue of declaring a person missing or declaring a natural person dead within the sphere of procedural law. In cases where, during the consideration of a civil case, the question of ownership of property or certain obligations arises, the court is guided by the presumption of a person's death if there has been no information about them for seven years. This presumption does not apply where it is clear from the materials of the civil case that no information about the person's whereabouts could reasonably have been expected or obtained.

In France, a court decision declaring a person missing must be published in the media and entered into the death register. In the absence of such a publication, the court decision loses its legal force. The civil law consequences of such registration are equivalent to those of declaring a natural person dead. In such cases, the management of property and the marriage are terminated, and the persons involved lose their status as spouses. If the person in respect of whom such a court decision has been made returns or evidence of their survival appears, all property in the condition in which it existed at the time of return, everything that should have been received, as well as the value of any alienated property, is to be restored to that person; however, in such a case, the marriage is not automatically reinstated.

According to the explanations set out in paragraph 13 of the Resolution of the Plenum of the Supreme Court of Ukraine No. 5 "On Judicial Practice in Cases on Establishing Facts of Legal Significance" (1995), when considering such cases, it is necessary to distinguish between declaring an individual dead and establishing the fact of a person's death. Declaring an individual dead constitutes a judicial confirmation of the assumption of a person's death, that is, a finding of a high degree of probability of death. Thus, declaring a person dead is intended to eliminate the uncertainty that arises in legal relations involving a person who has been absent from their permanent place of residence for a long time and whose whereabouts remain unknown. The grounds for declaring a person dead are not facts that confirm a person's death, but circumstances that provide a basis for assuming it (Klychkov, 2020).

It is worth noting that the termination of an obligation upon the death of an individual, as a basis for ending an obligation, is set out in Article 608 of the Civil Code of Ukraine (2003). The law does not merely refer to the death of an individual as a ground for terminating an obligation, but specifically to the death of an individual who is a party to the obligation – either the debtor (Part 1 of Article 608) or the creditor (Part 2 of Article 608). At the same time, the current legislation does not contain a precise legal definition of the concept of "ways of protecting rights", which has generated considerable discussion among legal scholars and practitioners, and has also exacerbated challenges in judicial practice.

In Canada, a surviving spouse may request additional financial support from the deceased's estate through several procedures provided under the Family Law Act (FLA) (1986) and the Succession Law Reform Act (SLRA) (1990), including property equalisation and dependants' support relief. In cases of intestacy, the SLRA offers surviving spouses further protection by guaranteeing them a preferential share of the deceased spouse's estate. However, there remains a distinction between married and unmarried spouses in this area of law, since only married spouses are eligible for certain statutory remedies. Consequently, to obtain an equitable division of the deceased's assets, unmarried spouses must rely on the common law, typically through claims based on constructive trust or unjust enrichment. Drafting solicitors must also bear in mind that death may affect support agreements between divorced spouses; therefore, they should ensure that their clients' rights and obligations concerning support are not affected by possible claims from other dependants (Payne & Payne, 2022).

The FLA (1986) provides spouses with some protection following a partner's death and imposes restrictions on testamentary freedom. Under the FLA's property-related provisions, cohabiting partners are not considered spouses. The statutory remedies relating to personal property and the matrimonial home are available only to the surviving married spouse or their personal representative, such as a property attorney (Payne & Payne, 2022). The legislation grants the surviving spouse the right to request an equalisation of the net family property upon the death of a married spouse. Where there is a valid will, the surviving spouse may choose to waive their rights under the will in favour of equalisation of the net family property. According to the legislation (FLA, 1986; SLRA, 1990), the surviving spouse may choose to receive either equalisation or their SLRA entitlement in the event of intestacy. The bereaved spouse has full discretion as to whether or not to accept an equalisation payment (Fera, 2024).

Regarding the gratuitous transfer of property upon death, married spouses receive additional legal protection. Gratuitous transfers are subject to a rebuttable presumption of a resulting trust under common law. The burden of proving that a gift was intended rests on the transferee in cases where a transfer is made without any consideration (for example, when a titled spouse places property in joint ownership with their partner). This presumption arises because equity presumes bargains rather than gifts. Consequently, the surviving spouse bears a significant burden of proof (Kirton-Darling, 2022).

In Australia, the Family Law Act (1975) and the Succession Act (2023) are interrelated, as demonstrated when a party to family court proceedings dies. Falconer (2020) explains the legal implications of such circumstances and the intersection of these two areas of law. When a person dies and neither party has initiated family law proceedings, estate law governs the distribution of assets. Under the relevant Act in each state and territory, if insufficient provision has been made from the estate or during the deceased's lifetime, a court may order that funds be taken from the estate for the "proper maintenance, education, or advancement in life" of a family member (Falconer, 2020).

The legislation governing family and estate law provides various protections for surviving spouses while imposing limits on testamentary freedom. It ensures that property rights and inheritance entitlements are primarily available to legally married partners, enabling them to seek an equalisation of family property upon a spouse's death. However, cohabiting partners do not enjoy the same legal status. Moreover, the law presumes that property transfers made without payment are not gifts unless proven otherwise, thereby placing the burden of proof on the recipient. Similar legal principles apply in Australia, where family and succession laws operate in tandem to ensure financial support and maintenance for surviving family members.

Rights of the deceased and posthumous perspectives. Numerous legal restrictions affirm that the deceased possesses no legal rights. Rights such as voting, marriage, and divorce terminate upon death. The executor of an estate cannot be sued for libel or slander committed by the deceased. Furthermore, the right to medical privacy is significantly diminished after death, allowing family members to access the deceased's personal health information. Nonetheless, substantial efforts have been made by various legal bodies to safeguard the interests of the deceased. As such, testamentary bequests, burial wishes, and organ donation instructions are generally upheld even when they conflict with the preferences of the living. Wills are enforced even when their provisions may adversely affect living individuals. Some jurisdictions formally recognise a posthumous right of publicity, and case law indicates the potential existence of a posthumous right to reproductive autonomy (Rainbolt, 2023).

Judges frequently employ the language of rights in cases involving benefits or harms to deceased persons, even though it may be assumed that courts occasionally use such terminology imprecisely. Nonetheless, the consistent use of rights-based language suggests that social and cultural norms guide legislators and courts to respect and honour the deceased, particularly in cases where the harm to the living is minimal (Norman, 2021). Even though laws pertaining to the deceased frequently include a practical component, cultural norms – such as respect for the intentions of the deceased and human dignity – are among the main, and often overlooked, factors that have contributed to the development of these laws. The Interest Theory approach to rights can therefore be applied in this context. According to Interest Theory, individuals who are currently unable to make decisions – such as infants and people with mental illnesses – may nevertheless possess rights. By extension, the deceased may have legal rights even though they are incapable of making decisions in the present. Additionally, certain interests can persist after death, such as the desire to see one's children live or the need to maintain one's reputation. The deceased are thus accorded de facto legal rights that can be invoked against the living when these interests are safeguarded by law. Death does not necessarily sever all interests, and consequently not all legal rights, even though only a subset of interests may survive death, and an even smaller portion may receive legal protection. As would be expected if legislators were motivated by a wish to treat the deceased with respect, the recognition of posthumous legal rights confers upon the deceased a significant moral standing within the legal system (Kurki, 2021).

Because society has chosen to uphold the concept of autonomy – within reasonable limits – the law also seeks to respect a decedent's preferences and safeguard their interests. For this reason, when determining how to dispose of a deceased person's body or property, courts frequently take the deceased's wishes into account. Naturally, even for the living, there are legal constraints on autonomy, and the legal community continually debates the precise scope of these restrictions. Because no one can contemporaneously speak to the decedent's wishes, and because the power to make decisions and alter preferences dies with them, autonomy is more restricted for the dead than for the living. These considerations provide a basis for defining the limits of post-mortem autonomy and posthumous legal rights.

Will Theorists contend that individuals possess legal rights only when they are conscious and competent to make decisions. This school of thought holds that the essence of a right lies in the rightholder's ability to make normatively significant decisions influencing the behaviour of others (Hearns, 2018). A Will Theorist would argue that the deceased cannot have rights, as they are incapable of making meaningful decisions or developing interests. According to Will Theory, even comatose or senile living persons cannot possess legal rights, as they are unable to formulate and communicate their wishes in a manner that would allow them to exercise such rights (Hearns, 2018). This is not to suggest, however, that entities or individuals incapable of possessing legal rights cannot receive legal protection. Although a Will Theorist might believe that the dead, senile, or comatose should be afforded legal protection, they would not describe these protections as legal rights – or at least not as rights that the deceased, senile, or comatose person themselves possess. Rather, a Will Theorist would contend that rules that appear to grant the deceased posthumous rights are in fact intended to regulate the conduct of living individuals. An Interest Theorist, on the other hand, would allow for the conclusion that an individual who lacks the capacity to make decisions – such as a person who is unconscious – might nonetheless possess legal rights because they still have interests, even if they are unable to articulate them (Hearns, 2018).

For example, in the case of Terri Schiavo, who was in a persistent vegetative state and considered non-sentient by most medical professionals, Interest Theorists would argue that she still possessed legal rights despite her inability to express them. The legal proceedings surrounding her case appeared to support this view, as the judge acknowledged her potential legal interests, even though she was unable to make decisions or communicate her wishes (Charatan, 2005).

Because society has chosen to uphold the principle of autonomy – within reasonable limits – the law also aims to respect a decedent's preferences and safeguard their interests. For this reason, when determining how to dispose of a deceased person's body or property, courts frequently take the deceased's wishes into account (Klasiček, 2023). Even for the living, there are, of course, legal restrictions on autonomy, and the law is continually debating the precise extent of these restrictions. Because no one can contemporaneously speak for the decedent's wishes, and because the power to make decisions and alter preferences dies with them, autonomy is more restricted for the dead than for the living.

For a group of individuals, death is a fact that results in the acquisition of rights and duties. Verification of death, including the establishment of property rights and obligations which extend beyond inheritance to heirs, is the first step in several legal processes. According to Alikaj (2014), several other legal relationships end with the dissolution of marriage. The most common example of a personal legal relationship that terminates with the death of one partner is marriage. The Family Codes generally define death and the acknowledgement of death as a ground for ending a marriage. Similarly, parental obligations established through adoption or natural parentage end with the death of the individual. In the case of an adoptive candidate's death, the adoption institution presents an unusual situation in which the adoption process may still be successfully completed, and the adopted child's rights are thereby acquired (Willems, 2017).

In addition to a person's natural death, which results from the cessation of all physiological functions, laws also provide for civil death, which is based on a presumed natural death. Even civil deaths must be reported to the state civil authorities, just as natural deaths are (Upadhyay, 2021).

A person can be declared dead in one of two ways: either naturally, as confirmed by a medical certificate, or civilly, as confirmed by a court ruling that declares the individual deceased. According to the Law of the Republic of Albania No. 7870/1994 (1994) for example, if a person goes missing during a natural disaster or under circumstances that suggest their death, the court may declare them deceased if no communication has been received from them for two years following the disaster, even if they had not previously been reported missing (Alikaj, 2014).

As a result of the act of death and the individual's registration in the death record, the person is removed from certain public registers, such as electoral or tax authority registers. Civil death, however, is associated with ambiguity, unlike natural death. The law allows the individual who has been declared dead to reappear, even though the legal consequences remain the same. When an individual who was pronounced dead turns out to be alive, they or any other interested party may apply to the court that issued the death certificate to have the declaration of death revoked. When a person who has been declared dead is found to be alive, they are entitled to recover all property and rights held prior to their presumed death, with the exception of marriage, which can only be reinstated if the spouse has not entered into a new marriage.

The employment-law relationships that arise after someone has been declared dead are of particular importance. This primarily concerns what happens if one of the parties to an employment contract dies. Even though the issue is rarely addressed, it warrants consideration, particularly in cases involving individual employers, as the death of a party during an employment relationship may have unforeseen consequences. However, it is uncommon for this matter to be covered by any clause in the employment contract; as a result, the heirs of the employer or employee who dies prematurely often encounter a contract that says nothing about the situation (Cabrelli, 2020).

Naturally, the question of the contract's continuation does not arise in the case of the employee's death. This does not, however, negate the employer's obligation to consider how to deliver the required documentation and payments owed at the conclusion of the contract. Unless the money is to be deposited into the account normally used for salary payments, the employer should promptly contact the notary appointed to the estate to settle at least the outstanding sums.

However, the legal provisions concerning the contract's termination must be considered more broadly in the case of an individual employer's death. Several factors may be taken into account if there is no specific law governing the matter (Zawadzka, 2024). One of the most significant questions in this context is whether the employment contract automatically transfers to the employer's heirs (Trabsky & Jones, 2024).

According to rulings by the Monegasque courts, the death of the employer does not necessarily constitute a case of force majeure that automatically terminates the employment contract, as it does not always render the performance of the contract impossible. The employer's heirs may therefore continue the contractual relationship. Consequently, if the heirs do not provide justification for such impossibility, the employer's death cannot, by itself, be considered to have terminated the employment contract; rather, it must be explicitly invoked as a valid reason for termination – the contract having lost an essential element of its existence – in order for the termination to be deemed legitimate. Following the initial containment measures implemented to address the COVID-19 epidemic, the Supreme Court heard an appeal for annulment on the grounds that a law governing unfair dismissal was unconstitutional. The court also confirmed that the death of the employer constituted one of the grounds for terminating the employment contract, as the basis of the contractual relationship had ceased to exist.

In the Republic of South Africa, an employment relationship ends by operation of law (Employment Law in South Africa, 2023) when the employer dies, relieving both parties of their contractual obligations. Employers or sole proprietors who enter into employment contracts in their individual capacity are the sole drivers of their businesses, and their death not only signifies the end of an era but also raises serious concerns regarding the rights and benefits of their employees. One of the most frequently misinterpreted issues is that of severance packages – those essential safety nets designed to mitigate the effects of a no-fault job loss. A key question is whether employees are, however, entitled to severance benefits in the event of an employer's death and whether such provisions can apply to sole proprietors who conclude employment contracts in their personal capacity (Stelzner *et al.*, 2021).

In South Africa, dismissals based on operational requirements are governed by Sections 189 and 189A of the South African Labour Relations Act (LRA) (1995). Employees dismissed for operational reasons are entitled to severance pay equivalent to at least one week's remuneration for each year of continuous employment with that employer, according to Section 41(2) of the South Africa Conditions of Employment Act (BCEA) (1997). In this context, "operational requirements" are defined by Section 41(1) of the BCEA as requirements arising from an employer's structural, technical, economic, or similar needs. In conclusion, severance pay is only due in cases where the employee is dismissed for operational reasons. An employment contract does not automatically terminate upon the employer's death. In certain circumstances, the provisions of contract law may still apply, rendering the agreement enforceable. Moreover, upon the employer's death, the executor of the deceased's estate assumes responsibility for the deceased's assets, including employmentrelated matters. This principle, however, does not apply where the services are of a personal nature. In such cases, performance becomes impossible, and the contract terminates with the employer's death. Where the employer dies during the term of the contract, the contract is terminated due to objective impossibility of performance (Smith & Plaatjies, 2024).

In the case of Meyers / Estate Late Dr Gordon (Stelzner *et al.*, 2021), an employee's employment was terminated following the death of the physician for whom she worked. The employee filed a claim against the estate of her late employer for severance pay for ten years of service and for a thirteenth-month salary. As the employment relationship ended by operation of law rather than for operational reasons, the Commission for Conciliation, Mediation and Arbitration (CCMA) ruled that an employee whose employment is terminated by the death of their employer is not entitled to severance pay.

In the UK, an employee's death immediately ends their contract of employment (Judgment of the Court of Common Pleas of England, 1869). However, the personal representatives of the deceased employee may pursue any outstanding claims under the ERA 1996 (with a few limitations, such as the entitlement to a written statement of employment particulars). The Court of Appeal has held that the personal representative of a claimant may pursue a claim for compensation for racial discrimination (Judgment of the United Kingdom Appeal Tribunal, 1999), despite there being no express provision for the commencement or continuation of such claims. It would appear that this principle would also apply to pending claims for compensation for discrimination on any of the other protected grounds. Since there would have been no dismissal, there can be no claim for unfair dismissal (Bear, 2023). This is a general matter of contract law with regard to any settlement agreement and the payment in lieu of notice or termination payment agreed upon therein. Any cause of action that has accrued to either party prior to the employee's death remains enforceable (Judgment of the United Kingdom Court of Exchequer, 1867), but no claim may be made to enforce rights that would arise only after that date. A claim for the employee's salary or earnings up to the date of death exists where either party dies. However, it may be argued that the employee's estate would not be entitled to the PILON or termination payment, as these had not yet accrued. Since the employee was in service at the time of death, the estate would be entitled to any death-in-service benefits for which the employee qualified (Bear, 2023).

The death of an employer frustrates and therefore terminates the employment contracts of all the employer's workers under common law, where the employer is a natural person rather than a legal entity such as a company or partnership. Ownership of the business automatically passes to the deceased's personal representatives, who, except for maintaining the business in order to sell it as a going concern, lack the authority to continue its operations. However, the deceased may expressly or impliedly empower their personal representatives to continue the business through their will. This authority is generally implied from the standard clause granting executors the power to postpone the sale of the whole or part of the deceased's estate (Zawadzka, 2024).

With regard to employment relations in Ukraine, it should be noted that on 9 July 2022, the Law of Ukraine dated 1 July 2022, No. 2352-IX "On Amendments to Certain Laws of Ukraine Regarding the Optimisation of Labor Relations", entered into force. This law introduced changes to Ukraine's labour legislation, particularly under the conditions of martial law. An employee who becomes aware of the death of an individual employer, or of a court decision declaring such an individual missing or deceased, must submit an application to any district, city-district, city, or regional employment centre, stating the relevant information and, where available, providing copies of documents confirming the death or the relevant court decision (for example, a copy of a death certificate or court ruling). The date on which the employment contract is terminated is considered to be the day on which such an application is submitted.

The recognition of a foreign death certificate in another country is another pressing issue of global significance. The following question arises in relation to the aforementioned example. Suppose that, in the exercise of its authority, one of the nations A–F has declared the missing individual to be deceased. The nations that were initially involved, or even other countries, may be required, for various reasons, to accept such a declaration of death as proof of the missing person's passing. Certain nations (such as Austria, Hungary, and Italy) do not recognise a death certificate issued by a foreign court for one of their citizens. Other nations (such as Belgium and Luxembourg) leave the matter to the discretion of the trial court. The issue remains under discussion in many countries.

Lastly, it should be emphasised that, although laws relating to the deceased frequently have a practical component, cultural norms – such as respect for the wishes of the deceased and human dignity – are among the primary yet often unacknowledged factors influencing their development. Death may not necessarily result in the loss of all interests, and hence all legal rights, even though only a subset of interests may survive death, and an even smaller proportion may be legally preserved. As would be expected if legislators are motivated by a desire to treat the deceased with respect, the recognition of posthumous legal rights confers upon the deceased a considerable moral standing within the legal systems of ethically advanced nations.

As previously mentioned, the law seeks to honour a decedent's intentions and preserve their interests, since society has chosen to uphold the notion of autonomy within certain boundaries. Courts typically consider a decedent's wishes when deciding how to dispose of their body or possessions (Klasiček, 2023). Of course, there are legal limits to autonomy, even for the living, and the law is continually grappling with the precise boundaries of these constraints. Autonomy is more limited in the dead than in the living for two reasons: no one can speak about the deceased's wishes in real time, and the ability to make choices and alter preferences ceases upon death. In this regard, establishing the boundaries of both post-mortem autonomy and posthumous legal rights is an important task in modern legal research.

Model of a multidisciplinary approach. Distinguishing between circumstances in which the deceased has a posthumous right and those in which they merely benefit without being the legal right-holder is the final issue concerning posthumous rights. A living person may, on occasion, possess a right that, in some way, benefits a deceased person when it is enforced. Because the deceased benefits in such circumstances, it is easy to assume that the law is conferring a posthumous right. The deceased, however, is only a third-party beneficiary in practice.

In circumstances involving deceased persons, the deceased, their estate, heirs, the general public, and the next of kin may all be potential right-holders. It can sometimes be difficult to distinguish the right-holder from third-party beneficiaries and other interested parties. For instance, although wrongful death lawsuits may appear to grant rights to the deceased, the true holder of these rights is usually the decedent's next of kin. Because the right to bring an action for wrongful death belongs to the next of kin, the deceased cannot properly be described as the right-holder, even though such a rule may serve their interests in retribution or the well-being of their heirs. Those who are granted standing to bring an action, those who receive the remedy, and those whom the court recognises as the right-holders are all indicators of who the actual right-holder is.

Another example of a right that appears to cease upon death is the right to marry. Obviously, a deceased person does not have the right to marry. It is physically impossible for someone who is deceased to take the vows required to enter into a legal marriage (with the possible exception of France, which permits posthumous marriages) (Allard & Murin, 2017). Some of the benefits of marriage, however, continue after death, even though the ability to marry and the marriage itself expire. In contrast to the right to vote, an analysis of the posthumous advantages of marriage helps to explain why the law may recognise some posthumous rights in a limited way while completely prohibiting others. When one spouse dies, the marriage and most of its associated legal rights and obligations are terminated. However, not all of a marriage's legal benefits and obligations end with death. For instance, some couples may benefit from the tax advantages of marriage by continuing to file taxes jointly for up to two years following the death of a spouse. Even if the surviving spouse has never been employed, they may still be eligible for social security payments upon the death of the wage-earning partner. In addition, when an estate passes entirely to a spouse upon death, it is exempt from estate tax obligations. Many of these provisions correspond with the presumed wishes of the deceased, but they also serve to benefit the surviving spouse.

The right to vote is another illustration of how rights terminate upon death. A person's right to vote ends shortly after their death when their name is removed from the register of voters. Since a deceased person cannot develop a preference for a particular candidate after death, it is reasonable in many respects to remove their name from the list. Voters must be competent in order to exercise their right to vote, meaning they must demonstrate a certain level of cognitive capacity. A person cannot form preferences for candidates or the intention to complete and cast a ballot without this fundamental level of cognitive functioning. In short, posthumous voting rights are untenable, as their exercise is impossible. Physical impossibility is a second type of impossibility. It would be difficult for a deceased person to cast a ballot in person at a polling station or to complete and submit a postal ballot, even if they had developed voting preferences while still alive and wished for them to continue after death. Despite physical impossibility and incapacity, it is nevertheless conceivable to imagine a hypothetical situation in which granting a deceased person the ability to vote might appear feasible. In theory, a person might specify in their will that they wish to vote Conservative after death. Their will could instruct the executor of the estate to vote on their behalf each year for all Conservative candidates. It would appear that an unwritten principle – that the deceased do not possess the right to vote – would be the only basis for finding such a clause unconstitutional, provided it did not contravene the rule against perpetuities. Perhaps the law should respect a decedent's voting intentions if it respects other pre-mortem wishes after death. Of course, this approach could raise difficulties. Since the deceased do not bear the consequences of their decisions, one may argue against posthumous voting rights. This detachment could distort their choices, potentially producing harmful effects on society. This is problematic and is probably what prevents posthumous voting. The law is less likely to respect the autonomy of the deceased when their interests conflict with those of the living.

The constitutional right to reproductive autonomy provides another illustration. According to the U.S. Constitution (1787), American citizens are entitled to reproductive autonomy as a fundamental constitutional right. Broadly speaking, it encompasses the rights to abortion, contraception, and other reproductive freedoms. Posthumous reproduction has become feasible due to advances in reproductive technology in recent years, leading to a variety of previously unimaginable circumstances. The use of frozen sperm following the donor's death and the delivery of children by brain-dead mothers are two of the most significant and frequently discussed forms of posthumous reproduction.

Because it appears to undermine the concept of rights and attribute to the body an ontological status that defies reason, the idea of rights belonging to a corpse might provoke disbelief. Conversely, it may be shown that the "social corpse" is created as a repository of value and meaning, remaining human and, in a social sense, alive. Appropriate obligations towards the deceased indicate that the rights arising from those obligations are an integral part of them.

Therefore, the claim that a corpse is no longer an essential component of a human being and that it is not entitled to legal human rights is no longer persuasive. Furthermore, as medical and technological advances have made it possible for machines to keep hearts beating and lungs functioning almost indefinitely, it has become necessary to redefine the notion of death. The concept of brain death emerged as a potential solution, despite its own uncertainties. The uncertainty surrounding the time of death has been brought to light by organ harvesting, but the ability to identify this moment is equally crucial for family members and caregivers, who must decide how long to keep a patient on life support and when to withdraw the devices. Thus, a contemporary concept of a legal "lens" for considering the declaration of death and the implementation of the corpse's rights can be depicted schematically (Fig. 1).

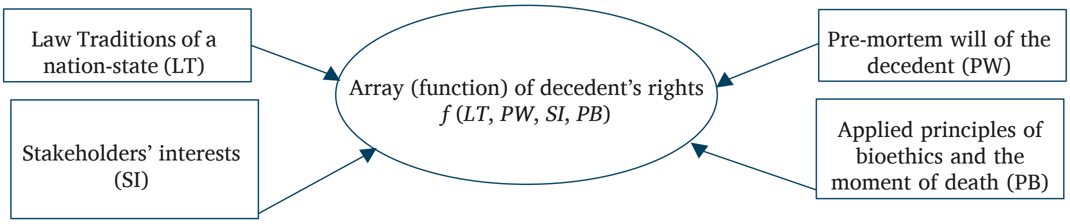

Figure 1. Contemporary concept of a decedent's rights

Source: developed by the authors

Conflict between the interests of the living and the dead is the final, and sometimes most complex, consideration when deciding whether the deceased should possess a specific right. In certain situations, courts appear to apply an implicit balancing test to determine whether the interests of a living person outweigh those of a deceased person, even when those interests would not typically override the autonomy of a living individual.

Conclusions

This study examined the legal consequences of declaring an individual deceased within the framework of civil, family, and labour law, adopting a multidisciplinary and comparative approach. Despite certain limitations – such as the scarcity of published statistical data and restricted access to some judicial decisions – the research achieved its primary aim: to identify the legal implications of such declarations and conceptualise them within the modern posthuman rights paradigm.

The analysis of national and international legislation revealed that the declaration of death functions as a crucial legal mechanism ensuring the continuity of civil circulation, the protection of property and family rights, and the regulation of employment relations. It was found that Ukrainian legislation, while generally consistent with global standards, remains fragmented in both procedural and substantive aspects. The study demonstrated that legislative amendments adopted during wartime simplified death registration procedures but also exposed notable deficiencies in evidentiary verification and in the recognition of foreign certificates. These findings underscore the need for a more coherent legal framework that balances legal certainty with humanitarian considerations.

Comparative analysis showed that different jurisdictions interpret and regulate the declaration of death through diverse legal doctrines, reflecting distinct socio-cultural and ethical traditions. Examination of the civil, family, and labour consequences of death indicated that this legal fact terminates personal non-property relations yet generates new rights and obligations, particularly in inheritance and succession law. The research further established that contemporary legal scholarship increasingly recognises the persistence of certain interests after death, thereby supporting the Interest Theory of Rights, according to which posthumous rights may be legally acknowledged and safeguarded.

The results of this study contribute to the conceptual understanding of posthumous legal personality. The identified legal patterns allow the conclusion that the phenomenon of declaring an individual deceased is not merely a procedural instrument but also a reflection of evolving moral, ethical, and social values embedded in modern legal systems. Conceptually, these findings demonstrate that death, as a legal fact, extends beyond biological cessation and continues to influence the dynamics of legal relations and the preservation of individual dignity.

In summary, the research provides a foundation for further theoretical and legislative inquiry into posthumous rights. Future studies should aim to refine the legal definitions of death, develop unified standards for cross-border recognition of death declarations, and explore the ethical implications of digital and informational posthumous identities.

Acknowledgements

None.

Funding

The study was not funded.

Conflict of interest

None.

References

[1] Alikaj, V. (2014). Natural death vs civil death. *Mediterranean Journal of Social Sciences,* 5(22), 320-325. doi: 10.5901/mjss.2014.v5n22p320.

[2] Allard, K., & Munir, S. (2017). *Posthumous marriages and the importance of making a will.* Retrieved from https://surl.li/avpwol.

[3] Bear, M. (2023). *A practical guide to UK Employment Law: For HR professionals, managers & employees.* London: MichaelHR.

[4] Black, H.C. (1990). *Black's law dictionary (6th ed.)*. St. Paul: West Publishing Co.

[5] Bowen, J. (2022). The interest theory of rights at the margins: Posthumous rights. In M. McBride & V. Kurki (Eds.), *Without trimmings: The legal, moral, and political philosophy of Matthew Kramer* (pp. 51-72). Oxford: Oxford University Press.

[6] Cabrelli, D. (2020). *Employment Law in context*. Oxford: Oxford University Press.

[7] Chandler, J.A., & Pope, T.M. (2023). Legal considerations for the definition of death in the 2023 Canadian Brain-Based Definition of Death Clinical Practice Guideline. *Canadian Journal of Anesthesia*, 70, 659-670. doi: 10.1007/s12630-023-02410-9.

[8] Charatan, F. (2005). Autopsy supports clam that Schiavo was in persistent vegetative state. *British Medical Journal*, 330(7506), article number 1467. doi: 10.1136/bmj.330.7506.1467-a.
[9] Civil Code of Ukraine. (2003, January). Retrieved from https://ips.ligazakon.net/document/T030435.
[10] Civil Procedure Code of Ukraine. (2004, March). Retrieved from https://zakon.rada.gov.ua/go/1618-15.
[11] Dinneen, J.D., Krtalić, M., Davoudi, N., Hellmich, H., Ochsner, C., & Bressel, P. (2024). Information science and the inevitable: A literature review at the intersection of death and information management: An Annual Review of Information Science and Technology (ARIST) paper. *Journal of the Association for Information Science and Technology*, 75(3), 268-297. doi: 10.1002/asi.24861.
[12] Employment Law in South Africa. (2023). Retrieved from https://surli.cc/msqjqm.
[13] Falconer, K. (2020). Reconceptualising the Law of the dead by expanding the interests of the living. *Monash University Law Review*, 45(3), 757-784.
[14] Family Law Act of Australia. (1975, June). Retrieved from https://surl.li/exnykc.
[15] Family Law Act of Ontario. (1986). Retrieved from https://www.ontario.ca/laws/statute/90f03?search=family+law+act.
[16] Fera, N. (2024). *Canadian family law handbook*. London: Austin Macauley Publishers.
[17] Hearns, W. (2018). *The theory of legal duties and rights: An introduction to analytical jurisprudence*. London: Forgotten Books.
[18] Judgment of the Court of Common Pleas of England "Farrow v Wilson". (1869, July). Retrieved from https://www.studocu.com/my/document/international-islamic-university-malaysia/law-of-contract-1/farrow-v-wilson/40036076.
[19] Judgment of the United Kingdom Appeal Tribunal "Andrews (Deceased) v. Lewisham and Guys Mental Health NHS Trust". (1999, March). Retrieved from https://www.casemine.com/judgement/uk/5a8ff86760d03e7f57ebfc47.
[20] Judgment of the United Kingdom Court of Exchequer "Stubbs, Administrator v. the Holywell Railway Company". (1867, June). Retrieved from https://vlex.co.uk/vid/stubbs-v-the-holywell-802771817.
[21] Kirton-Darling, E. (2022). *Death, family and the law: The contemporary inquest in context*. Bristol: Bristol University Press.
[22] Klasiček, D. (2023). Inheritance law in the Twenty-First century: New circumstances and challenges. In O.J. Gstrein, M. Fröhlich, C. van den Berg & T. Giegerich, (Eds.), *Modernising European legal education (MELE)* (pp. 235-251). Cham: Springer. doi: 10.1007/978-3-031-40801-4 15.
[23] Klychkov, A. (2020). *Grounds and civil legal consequences of recognizing a natural person as missing and declaring him as dead in Ukraine*. (PhD Dissertation, National Academy of Internal Affairs, Kyiv, Ukraine).
[24] Kryshtanovych, M., Dragan, I., Grytsyshen, D., Sergiienko, L., & Baranovska, T. (2022). The public and environmental aspect of restoring sustainable regional development in the face of the negative impact of military actions on the territory of the country. *International Journal of Sustainable Development and Planning*, 17(5), 1645-1651. doi: 10.18280/ijsdp.170530.
[25] Kryshtanovych, M., Kiblyk, D., Dzyanyy, R., Kovalskyi, M., Primush, R., & Nazarenko, T. (2024). Formation of drivers of sustainable development: Administrative and legal support to ensure information security. *International Journal of Sustainable Development and Planning*, 19(4), 1611-1619. doi: 10.18280/ijsdp.19043.
[26] Kurki, V. (2021). *The interest theory of rights: Still standing*. Cambridge: Cambridge University Press.
[27] Law of the Republic of Albania No. 7870/1994 "On the Declaration of Death and the Legal Consequences of Absence". (1994, October). Retrieved from https://surl.lu/wdsosr.
[28] Law of Ukraine dated No. 2217-IX "On Amendments to Certain Laws of Ukraine Regarding the Regulation of the Legal Regime in the Temporarily Occupied Territory of Ukraine" (2022, April). Retrieved from http://surl.li/mackb.
[29] Law of Ukraine No. 2352-IX "On Amendments to Certain Laws of Ukraine Regarding the Optimisation of Labor Relations". (2022, July). Retrieved from https://zakon.rada.gov.ua/laws/main/2352-20.
[30] Norman, J. (2021). *Posthuman legal subjectivity*. London: Routledge.
[31] Opinion of the Supreme Court of U.S. in Case "Cruzan v. Director, Missouri Dep't of Health". (1990, December). Retrieved from https://supreme.justia.com/cases/federal/us/497/261/.
[32] Payne, J., & Payne, M. (2022). *Canadian family law*. Toronto: Irwin Law Inc.
[33] Pope, T. (2018). Brain death and the law: Hard cases and legal challenges. *The Hastings Center Report*, 48(4), 46-48. doi: 10.1002/hast.954.
[34] Rainbolt, G.W. (2023). Rights: Interest and will theories. In M. Sellers & S. Kirste (Eds.), *Encyclopedia of the philosophy of law and social philosophy* (pp. 3109-3113). Dordrecht: Springer. doi: 10.1007/978-94-007-6519-1 375.
[35] Resolution of the Plenum of the Supreme Court of Ukraine No. 5 "On Judicial Practice in Cases on Establishing Facts of Legal Significance". (1995, March). Retrieved from https://zakon.rada.gov.ua/go/v0005700-95.
[36] Sitkoff, R., & Dukeminier, J. (2021). *Wills, trusts, and estates (11th ed.)*. Burlington: Aspen Publishing.
[37] Smith, N., & Plaatjies, D. (2024). *Employee entitlements in the event of employer death*. Retrieved from https://surl.li/esqlnm.
[38] South Africa Conditions of Employment Act. (1997, December). Retrieved from https://surl.li/rkeaco.
[39] South Africa Labor Relations Act. (1995, December). Retrieved from https://surl.li/mcfrhl.
[40] Stelzner, S., Harrison, S., Patterson, B., & Ebrahim, Z. (2021). *Labour and employment compliance in South Africa*. Alphen aan den Rijn: Kluwer Law Intl.
[41] Succession Act of Australia. (2025, January). Retrieved from https://surl.lu/srnwsw.
[42] Succession Law Reform Act (SLRA). (1990). Retrieved from https://www.ontario.ca/laws/statute/90s26.
[43] Trabsky, M. (2024). *Death: New trajectories in law*. London: Routledge.
[44] Trabsky, M., & Jones, I. (2024). *The Routledge handbook of law and death*. London: Routledge.
[45] U.S. Constitution. (1787, September). Retrieved from https://www.archives.gov/founding-docs/constitution.
[46] Upadhyay, U. (2021). Declaration of civil death: Theoretical problems and practical solutions. *SSRN*. Retrieved from https://ssrn.com/abstract=3808643.

[47] Wicks, E. (2017). The legal definition of death and the right to life. In S. McCorristine (Ed.), *Interdisciplinary perspectives on mortality and its timings. Palgrave historical studies in the criminal corpse and its afterlife* (pp. 119-131). London: Palgrave Macmillan.
[48] Willems, G. (2017). Death and legal family formats in Belgium. In K. Waaldijk, M. Digoix, N. Nikolina, G.Zago, D. Damonzé, A. Caporali & A. Abdellah (Eds.), *The LawsAndFamilies Database – aspects of legal family formats for same-sex and different-sex couples*. Paris: INED.
[49] Zawadzka, J. (2024). Life after death? Legal relations of companies after cessation of their legal existence. *Athens Journal of Law*, 10(4), 567-590. doi: 10.30958/ajl.10-4-8.

Оголошення особи померлою: проблемні аспекти в контексті цивільних, трудових та сімейних правовідносин

Роман Демків
Кандидат юридичних наук, доцент
Львівський державний університет внутрішніх справ
79007, вул. Городоцька, 26, м. Львів, Україна
https://orcid.org/0000-0003-3867-7968
Наталія Грабар
Кандидат юридичних наук, доцент
Львівський державний університет внутрішніх справ
79007, вул. Городоцька, 26, м. Львів, Україна
https://orcid.org/0000-0001-5533-6765
Ростислав Бориславський
Доктор філософії в галузі права
Львівський державний університет внутрішніх справ
79007, вул. Городоцька, 26, м. Львів, Україна
https://orcid.org/0000-0001-8941-7942
Ірина Скворонська
Кандидат філологічних наук, доцент
Львівський державний університет внутрішніх справ
79007, вул. Городоцька, 26, м. Львів, Україна
https://orcid.org/0000-0002-6261-3393

Анотація. Дискурс пост-людських прав певним чином змінюють саму парадигму як правової констатації смерті людини, так і ставлення до імплікацій такої констатації. Розгляд сучасного стану та векторів розвитку правового розуміння та відповідних законодавчих положень оголошення людини померлою стає вкрай актуальною задачею наукового і практичного характеру. Дослідження юридичних аспектів смерті людини дозволяє розширити пізнання про відносини і зв'язки, що існують у суспільстві. На основі бібліографічного методу аналізу, порівняльно-правового та логічного методу в роботі розглянуто пост-людську концепцію визнання і оголошення людини померлою, а також прав людини оголошеної померлою, зокрема в рамках теорії волі та теорії інтересу. Показано, що ці дві теорії у пост-людській парадигмі знаходяться у певному протиріччі, опозиції одна до одної. У розрізі правових систем та правових традицій різних країн досліджено цивільно-правові наслідки оголошення фізичної особи померлою, розглянуто особливості зміни або припинення майнових та особистих немайнових правовідносин як наслідок оголошення фізичної особи померлою. Наголошується, що філософські основи поняття «права» необхідно враховувати при визначенні правових наслідків оголошення особи померлою – зокрема, посмертні юридичні права є одним із стрижневих векторів такого розгляду. Запропоновано схему концептуального бачення прав покійного з урахуванням пост-людського вектору розвитку правових концепцій прав людини. Результати дослідження розширюють масив складових елементів правового осмислення смерті людини як юридичного факту, а також її правових наслідків

Ключові слова: правовий статус; права; пост-людська концепція прав людини; теорія волі; теорія інтересу; громадянська смерть