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CURRENT SITUATION IN REGULATION OF ORGANISATIONAL FORMS OF COMMERCIAL ENTITIES

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The Legislator has been developing the system of organisational forms of legal entities for more than three decades.

Adopting the Civil Code of Ukraine entailed a contradictory situation of the existence of alternative systems of subjects of commercial activity and entrepreneurial activity. At the same time, the classification set out in the Commercial Code of Ukraine also is not ideal and has a list of issues.

The Civil Code of Ukraine has the following divisions of legal entities: entities of public and private law – pursuant to an order of creation, societies, institutions, and other forms – pursuant to the form's classification. Herewith, this Code does not envisage an exhaustive list of possible forms (Civil Code of Ukraine, 2023).

In turn, the Commercial Code classify the enterprises as follows: according to type of ownership, it is possible to create an enterprise with private, collective property, communal, state, or mixed ownership; depending on the method of formation their unitary and corporate types (Commercial Code of Ukraine, 2023).

At the same time, this system is inconsistent because definitions of "an organisational form" and "a type" are mixed in clause 63 of the Commercial Code.

I.V. Spasibo-Fateeva and V.V. Spasibo consider that this clause describes types of enterprises, and its part 9 refers to organisational forms.

L.Y. Snisarenko also underlined inconsistency in this clause, where the headline mentions "organisational forms", and at the same time its content describes unitary and corporate enterprises. In her opinion, this is a reason why it is impossible to identify whether there are types or organisational forms (Snisarenko, 2014).

The present classification system entails malfunction in a legislative activity caused by inconsistencies, not between several legislative acts only but inside one.

The main reason for this situation is the absence of doctrinal certainty regarding the system of organisational forms. Scientific literature already has works that are made systematically, there are researches of K.O. Kocherhina, I.V. Borisova, but they are devoted to individual types of organisational forms, such as commercial entities and unitary enterprises and their separate types. There are no studies within their comprehensive research, which can provide agreed system with a defined list of deferral categories.

Due to the fact that national legislation cannot be developed without foreign ones, we have to take into consideration the experience of foreign countries regarding the systematisation of legal entities.

There is a direction to unification of legal entities system in Europe. Germany, France and other European counties have an exhaustive list of legal entities (Spasibo-Fateeva, 2021).

Herewith, in accordance with legislation of Germany, partnerships are not considered as legal entities and are not entranced into system of legal entities. But this approach is more widespread in countries with harmonised legislation, and, for example, in accordance with the Spain legislation, partnerships are part of legal entities system.

In turn, Great Britain, the USA do not require incorporation of partnerships, trusts, and associations (Kibenko, 2006).

Despite the difference between regulation of organisational forms in countries of continental law and common law, they do not create any additional criteria for differentiation and do not create such wide list of organisational forms as existed in Ukraine.

The main differential criteria used in foreign systems of legal entities is a type of activity performance as an indicator that considers business interests.

Scientists have repeatedly drawn attention to the essential specifics of organisational forms, which determines their exceptional feature. At the same time, as determining criteria for differentiation were given: the number of founders, the legal

regime of property, the limits of responsibility of the founders for the obligations of the enterprise.

Such additional criteria as “type” and division of economic entities depending on the number of employees and income contribute to the excessive accumulation of economic entities. The classification should be based on categories that constitute a significant specificity. The list of possible organisational and legal forms should be exclusive and not give grounds for layering additional intermediate forms, that is, there should be a clear separation of one form from another.

That is why there is a need to determine the system of organisational forms of commercial entities doctrinally.

It should be noted that these legal structures are dependent on the requirements of interests and functional tasks arising in this organisational sphere under the influence of a particular configuration of interests, on the degree of economic concentration of the subject and many other factors.

That is, the system of organisational forms requires modification whether at the vertical level by means of observing the criteria for differentiation of commercial entities, excluding unnecessary branches of some types from the system, and at the horizontal level by means of the formation of demarcation lines between different forms, the exclusion from the system of forms that are not relevant considering the interests of participants of market relations.

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CONTRACT ENFORCEMENT BY THIRD-PARTY BENEFICIARIES

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When people think about contracts, they suppose that there are only two parties involved. Contract law is not very simple sometimes, though. There can be other parties that have benefited from a contract's performance and can be hurt by its breach. The outside party is known as a "third-party beneficiary".

But what are Third Party Beneficiaries? A third-party beneficiary is a person or company that benefits from the terms of a contract between two other parties. In law, a third-party beneficiary may have certain rights that can be enforced if the contract is not fulfilled.

In 1806 American courts started recognizing that third-party beneficiaries have legal rights. In the seminal case, *Lawrence v. Fox (1859)*, Holly loaned $300 to Fox and Fox agreed to pay the $300 to Lawrence to satisfy a debt that Holly owed Lawrence. The New York Court of Appeals found that Lawrence was an intended third-party beneficiary of the contract who had rights and could enforce the contract between Holly and Fox to recover the $300. A third-party beneficiary is either a donee or a creditor. A donee beneficiary benefits from a contract gratuitously.

In general, an intended beneficiary is:

1) identified in the contract: there are cases where third-party beneficiaries were named in the contract;

2) receives performance directly from the promisor; or circumstances demonstrate that the promisee will give the beneficiary the benefit from the contract.

For example, in a 2012 case from New York, *Logan-Baldwin v. L.S.M. General Contractors, Inc.*, homeowners hired LSM to restore their homes. LSM hired Henry Isaacs, a subcontractor, to help with roofing. Henry Isaacs then hired Hal Brewster for assistance with the project but Brewster caused damage to the home forcing the homeowners to fix it themselves. The homeowners sued LSM and Isaacs for breach of contract. Isaacs argued that the homeowners did not have to stand to enforce its subcontract with LSM because the homeowners weren't intended third-party beneficiaries of the subcontract. The court disagreed and held that the homeowners were intended third-party beneficiaries of the contract, and therefore had stood against the promisee Isaacs. The court rooted its opinion on the circumstances of the contract. Isaacs knew that the purpose of the contract was to restore a home for the homeowners. The court reasoned that circumstances might indicate that there is an intended third-party beneficiary by looking at the contract as a whole.

For a third-party beneficiary to enforce a contract, his rights under the agreement must have vested, which means that the right must have come into existence.

Aside from the fact that the contract becomes enforceable by the third party upon vesting, the timing of the vesting is important for another reason. Before the third-party beneficiary's rights vest, the original parties to a contract can modify their contract in any way they see fit. Once rights vest, the original parties cannot discharge or modify contractual rights without the beneficiary's agreement to a change to the contractual rights.

A third-party beneficiary's rights vest when any of the following three things happen:

1) the beneficiary assents to the promise in a contract in the manner requested by the parties;

2) the beneficiary sues to enforce the contract's promise;

3) the beneficiary materially changes position in justifiable reliance on the contract's promise.

A third-party beneficiary is more than a mere outsider to a contractual arrangement. A third-party beneficiary is usually a legally protected entity with rights that can enforce the agreement to which this party is a beneficiary.

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THE PLACE OF PROTECTION OF HUMAN RIGHTS FROM THE POINT OF VIEW OF MODERN LAW PHILOSOPHY

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The protection of human rights is a problem that will never lose its relevance, as it directly affects human existence, which is the continuous exercise by people of their natural rights that are universal, inalienable, and indivisible. Without this realization, in the case of their alienation, a person cannot become a full-fledged human being.

The rule of law begins with the recognition of a person as the highest value, his natural inalienable rights and their positivization at the constitutional level. The Ukrainian state power must get used to the idea that the person is the highest value and the idea of protection of inalienable human rights by the state should be its main, most important function and duty. The matter is that to this day the idea has not been mastered by our state. We fully support the position of those scientists who call the human rights function of the state the main one, and consider that all other functions are derived from it.

The modern philosophy of human rights protection should be based on a natural-law approach, which affirms universal human values that embody and reproduce the foundations of human existence, because without them human being will be partial,

inferior, and these values are enshrined in the principles of law, which are the core, the foundation of the legal system. So, the modern philosophy of human rights protection in Ukraine must finally overcome state-centrism as a leading principle and be formed on humanistic, anthropocentric principles (Bratasuk, 2019).

In everyday legal consciousness, the legalistic attitude prevails, according to it only the state should and can protect a person with his rights. We suppose that Ukrainian society should change its attitude to this problem, because it must be solved both by the state, civil society, and every person.

In fact, it is everyone's duty to protect human rights, because these rights are not just a collection of norms of positive law, they are a universal human value, a universally significant prerequisite for the full-fledged life creation of everyone (Ohorodnyk, 2008). Modern legal thinking must be holistic; in its perception, a person must be an indispensable component of existence and foresee the consequences of violating the requirements of the law for himself and for the world outside himself.

Thus, the state-centered philosophy of legal protection is incompatible with the modern philosophy of human rights, therefore it must be replaced by a humanistic philosophy of legal protection, under which a humanistic worldview and philosophical foundation must be brought (Kress, 1991). Protection of human rights is not a monopoly of the state. It is obvious that the individual himself must first take care of the protection of his inalienable natural rights, because they as well as their realization and protection are a necessary prerequisite for his full existence. Moreover, each of us is responsible for the state of law in the country, self-realization, in the end, for our own destiny, descendants, and the entire country.

Therefore, taking care of an effective system of legal protection and its effectiveness is the business of each and everyone, in particular, people, the state, each of its representatives.

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VIOLENT STREET CRIME VICTIMIZATION: APPROACHING A BETTER UNDERSTANDING OF THE ISSUE

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Contemporary criminology actively explores the concept of the cost of crime. However, while the "economic" aspect, which includes material damage, medical expenses, forensic medical examinations etc., is quite tangible, the "humanitarian" — remains problematic and open to analysis (Smetanina, 2015). The issue of helping victims of violent crime, particularly in terms of overcoming the devastating effects on individuals, is one of the most relevant for modern interdisciplinary research. In particular, the process of proving a crime, in which the victim often faces repeated victimisation while gathering all admissible evidence and reliving traumatic experiences, requires further discussion. This is particularly relevant for victims of violent crimes, which are identified as particularly traumatic for mental health (Kilian et al., 2021). A notable step towards solving this problem could be the wider adoption of a victim-centered approach in the activities of criminal justice agencies (Wemmers, Parent & Lachance Quirion, 2022).

Initially, it appears that for the calculation of conditional benefits, such as loss of profits, the consequences of lost working ability or the cost of therapy for victims, it would be sufficient to turn to the system of actuarial calculations (life insurance mathematics). However, the judicial practice continues to approach the calculation of monetary equivalents for moral and physical suffering very ambiguously and cautiously. On the other hand, the assessment of the effectiveness of rehabilitation

programs for victims depends on qualitative calculations. Understanding the cost of crime for victims and indirectly for the community allows the state to prioritize this area together with other social problems and adjust government spending on efforts to combat crime (McCollister, French, & Fang, 2010). It should be noted that certain scholars doubt the possibility of investigating the effectiveness of a rehabilitation program for victims of violence as such. The analytical complexity lies in the presence of a large number of variables: the time period of the offence, the overall level of crime in the region, the sample representativeness, etc (National Research Council, 2014). The ability to track the precise effectiveness of a given victimological prevention program has led to a situation where each method in this field is subjected to sharp criticism and remains at a recommendatory level, without reaching the government support.

In particular, an analysis of the legislative framework shows that modern specialized pre- and post-victimological prevention programs for street violence in Ukraine have not yet fully developed, and the research for specific statistical results and reports on the implementation of such programs has proven to be extremely difficult. This may indicate a lack of sufficient information in society about such programs, a lack of public control over the implementation of social programs in this area, or low effectiveness of the measures implemented.

Today, in the current legislation, one can come across the phrase «prevention of victim behaviour among the population». However, the semantic meaning of this concept requires revision and potential scientific justification to limit its use for certain types of criminal offences from an ethical standpoint and to prevent secondary victimization.

Mostly, special attention and additional precautions are needed when applying the concept of crime victims. For criminological research, crime indicators are salient, not only those recorded within criminal proceedings, which do not always depend on subjective assessment or the victim's awareness of their role in the investigation process (Lukashevych, 2017). Nonetheless, research is usually based on the analysis of officially recorded data by law enforcement agencies and crime prevention organizations, which crucially reduces their factual representativeness. Therefore, high-

latency crimes, including incidents of street violence, are often overlooked. As a result, it is almost impossible to get an accurate picture of crime. This emphasizes the importance of criminology as a comprehensive interdisciplinary science that uses intuition to understand social reality.

Addressing the issue of victimology in the studied area, it is important to delineate the boundaries of assaults on the person's life and health that fall under the definition of the particular violent street crime. Current legislation defines the concept of a street and enumerates criminal offenses committed in its conditions, such as theft from public institutions if the perpetrator entered from the street or if the vehicle were located on an unprotected street segment. The legislator also includes violent crimes that generally occur in open areas of the city, excluding premises and buildings, and offenses committed on highways and main roads in this category (General Prosecutor's Office, 2020).

Regarding victimology prevention in violent street crime, the findings of the study «Restoring victims 'confidence: Victim-centred restorative practices», by Wemmers, Parent & Lachance Quirion (2022) are of interest. While researching the rational and irrational components of the aforementioned assaults, identified the following leading bases: confidence in a successful course of the crime, a desire for intense sensations (adrenaline, ecstasy), self-assertion, and the desire for informal justice restoration (revenge, vigilante justice). It should be noted that the latter aspect ought to be employed very rarely, because it implies that the victim of the crime has pre-established guilt and receives retribution. Instead, formal justice is the only viable option in a democratic society that consciously delegates the sphere of so-called «justice restoration» to the state to ensure law and order.

The next aspect that brings us closer to understanding the phenomenon of violent crime (including also violent street crime) and formulating rehabilitation programs, criminal justice policies of the state in general, is the factor of avoidance. Victims of crimes who choose not to turn to competent authorities in an effort to avoid re-victimization do not always worsen their situation. It is essential to recognize the importance of qualified assistance and support from professionals to ensure long-term

psychological and social rehabilitation of the victim. Sometimes, conscious support from family, friends, or community groups plays a crucial role in overcoming the consequences of a crime (McCart, Smith, & Sawyer, 2010). However, while the decision of the victim is always personal, it is important to consider the aspect of balancing individual interests and the interests of society as a whole, without forgetting the harmful consequences of tolerating criminality.

As early criminological theories tended to neglect the needs of victims of violent crime and downplay the aspect of traumatic experiences, they contributed to a somewhat distorted understanding of the role of victims in society. Therefore, current victim-centered study is of utmost importance and require continuous support from theoretical and practical research. Consequently, victim-centered restorative justice is a highly significant institution for contemporary democratic societies, but it should not be seen as an alternative to traditional criminal justice processes. Above all, it is a supportive tool that should assist the state mechanisms, through competent structures, in focusing on the victim and the detrimental consequences for them, without abstracting from the rights of the offenders (Wemmers, Parent & Lachance Quirion, 2022).

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DEVELOPMENT OF INNOVATIVE FORMS OF LEGAL REGULATION IN CONDITIONS OF RAPID TECHNOLOGICAL PROGRESS AND GLOBALIZATION

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Technological progress and globalization are changing our world faster than ever before. The speed of development of information technologies and the growth of people's needs in connection with them pose legal science challenges related to the protection of people's rights and interests. The development of technology and globalization leads to changes in our needs, lifestyles, and interactions with other people. However, these changes also create new challenges for legal regulation, especially in the context of innovative technologies. An important task of legal science is the development of effective forms of legal regulation that ensure the protection of people's rights and interests in the modern world.

Conditions of rapid technological progress and globalization require the development of innovative forms of legal regulation. Among them, we can distinguish

special legal regimes, protection of intellectual property rights, regulations on safety and protection of consumer rights, as well as regulation of competition. Legal regulators must be flexible and dynamic so that they can adapt to changing market conditions and technology. One of the most important aspects of innovative legal regulation is the creation of a favorable climate for innovations and ensuring their use in economic activity (Derevyanko, 2012, p. 7). To achieve this goal, there are some innovative forms of legal regulation, particularly the establishment of a special legal regime. It is established to promote the development of innovative activity and ensure its use. Special legal regimes may include such instruments as tax benefits, exemptions from certain types of state fees, and other taxes.

The development of innovations requires proper protection of intellectual property rights. This makes creating new products and services possible and ensures the appropriate use of innovations in economic activity (Oliynyk, 2019, p. 129). For this, there are special legislative acts that regulate the protection of intellectual property rights, in particular the patent law, the law on trademarks, the law on copyright, etc.

To effectively apply innovative forms of legal regulation, it is necessary to create a favorable legislative framework that will take into account rapid technological progress and globalization. It is also important to ensure effective cooperation between research institutions, enterprises, and legal bodies to ensure the high quality and effectiveness of regulation.

In addition, individual legal regulation is quite relevant today in the conditions of the development of social relations, and the emergence of new spheres of regulation and requires research (Levytskyi, & Radynskyi, 2022, p.14). This legal phenomenon has a socio-administrative nature, which provides solutions to specific life situations by creating individual legal acts. It is worth emphasizing that the concept of "living law" does not seek to supplant jurisprudence, it is only an attempt to force the latter to investigate social reality because laws are not capable of containing all the diversity of life. This, in turn, indicates the need to apply an individual approach to regulation and the creation of separate individual acts in any sphere of public life. "Living" is the

right that can satisfy the constant demands of life, transform depending on the needs of life and improve along with the development of social relations (Shapenko, & Kyrychenko, 2019, p.12).

Thus, the development of innovative forms of legal regulation allows for the effective protection of intellectual property rights, ensures consumer safety and rights, promotes fair competition, and stimulates the development of new technologies and innovations. On the other hand, it is necessary to remember that legal regulation should not hinder innovative development, but rather promote it. Legal regulators must be flexible and dynamic so that they can adapt to changing market conditions and technology.

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CONSTITUTIONAL LEGAL STATUS OF INDIGENOUS PEOPLES OF UKRAINE

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There are three indigenous peoples living on the territory of Ukraine, whose historical homeland is within the borders of Ukraine. The concept of "indigenous peoples" is mentioned in the first state acts of Ukraine, in particular in the Constitution of Ukraine, the Law of Ukraine "On Indigenous Peoples of Ukraine", adopted on July 1, 2021, and other normative legal acts of Ukraine.

The legal framework of the normative legal support for the rights of the indigenous peoples of Ukraine was established after declaring the independence of our state. One of the first legal documents in which the legislator enshrined equal rights for all ethnic groups inhabiting the territory of Ukraine is the Declaration of Rights of Nationalities of Ukraine, which formulates the principles of the national policy of the Ukrainian state, emphasizes that Ukraine guarantees equal political, social, economic, and cultural rights to all peoples, national groups, and citizens residing on its territory (Law of Ukraine № 254k/96, 1996).

In accordance with Article 11 of the Constitution of Ukraine, "the state promotes the consolidation and development of the Ukrainian nation, its historical consciousness, traditions and culture, as well as the development of the ethnic, cultural, linguistic, and religious identity of all indigenous peoples and national minorities in Ukraine". According to Article 8 of the Constitution, the Constitution has the highest legal force, and laws and other normative legal acts are adopted on its basis and must comply with it. Article 11 of the Basic Law of Ukraine establishes three collective subjects of the right, the development of which our state has committed to promote: the Ukrainian nation, indigenous peoples, and national minorities. On the basis of these provisions, it can be concluded that national minorities and indigenous peoples should be distinguished as different and separate groups of people. The basis for distinguishing

these groups from the general population of Ukraine is the inherent characteristics that are in this case denoted by the term "identity."

The Constitution of Ukraine distinguishes the Ukrainian nation from national minorities and indigenous peoples, basin on its ethnic understanding, since individuals representing the other two communities have a different ethnic origin. Thus, in defining indigenous peoples and national minorities, the Ukrainian legislator applies the approach under which these groups are divided on the bases of their inherent characteristics. In particular, the Constitution of Ukraine establishes four groups of such characteristics: ethnic, cultural, linguistic, and religious.

In addition to the provisions mentioned above, namely Articles 11 and 92, the Basic Law contains another mention of indigenous peoples. Article 119 of the Constitution of Ukraine, in particular, states that in places of compact residence of indigenous peoples and national minorities, local state administrations ensure the implementation of programs for the national-cultural development of such groups.

The concept of indigenous peoples of Ukraine is provided in Article 1 of the Law of Ukraine "On Indigenous Peoples of Ukraine": "The indigenous peoples of Ukraine are autochthonous ethnic communities that formed on the territory of Ukraine, are bearers of their native language and original culture, have traditional social, cultural, or representative bodies, identify themselves as indigenous peoples of Ukraine, constitute an ethnic minority of its population, and do not have their own state outside Ukraine". At the same time, Part 2 of Article 1 of the Law of Ukraine "On Indigenous Peoples of Ukraine" defines a list of indigenous peoples of Ukraine that have formed on the territory of the Crimean Peninsula: Crimean Tatars, Karaites, Krymchaks (Kornat, 2021).

The article discusses the legal status of the indigenous peoples of Ukraine as defined by the Law of Ukraine "On Indigenous Peoples of Ukraine." According to Article 2 of the law, the indigenous peoples have the right to self-determination within Ukraine, determination of their political status within the framework of the Constitution and laws of Ukraine, and free economic, social, and cultural development. The law also guarantees indigenous peoples the right to self-government in matters that fall within

their inferior affairs, including the establishment and operation of their representative bodies.

The main goal of the Ukrainian state is to ensure the rights and guarantees of indigenous peoples residing on its territory and conscientiously fulfill them. The article suggests that the following rights and guarantees are essential for achieving this goal:

- Land ownership and use of land: this is the most important right as the economic activity of indigenous peoples directly depends on the amount of land they can use.
- Participation in land use monitoring: this right is significant as it fulfills the state's control function.
- Financing of the socio-economic and cultural development of indigenous peoples from various sources: providing indigenous peoples with financial resources is important for the development of their cultural heritage and economic expenses.
- Damages for caused by the harm inflicted on the environment of their traditional residence: this right is exercised through the system of state bodies.
- Participation of authorized representatives of indigenous peoples in creating and adopting legislation by state authorities: this right enables them to participate in the decision-making processes that affect their lives.
- Delegating authorized representatives of indigenous peoples to councils of representatives of indigenous peoples at the executive authorities of Ukraine: this right allows them to be represented in an executive decision-making process.

The legal status of the indigenous peoples of Ukraine is regulated not only at the level of the Constitution of Ukraine but also through various international treaties and agreements that Ukraine has ratified.

In international documents, the term "indigenous peoples" is used differently. For example, "aborigines", "peoples who lead a tribal or semi-tribal way of life", "original inhabitants", "fourth world", "traditional peoples", etc. (Dubova, 2018).

The first international document is Convention No. 107 of the International Labor Organization "Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries" (1957). For example, the Indians were the first to raise the issue of supporting their interests and rights.

Indigenous peoples can be found in various parts of the world. To establish the legal status of indigenous peoples, it is important to recognize their right to pursue a special path of development, where the values of a traditional way of life are important. This means that indigenous peoples are integrated into modern society and recognized by the entire global community. In the modern world, there is the globalization in all spheres of life (economics, politics, culture), as well as of the international language, which requires protection of the language and cultural foundations of national minorities in different ways.

The United Nations Declaration on the Rights of Indigenous Peoples, adopted by resolution 61/295 of the General Assembly on September 13, 2007, states that "the inherent rights of indigenous peoples, which are based on their political, economic and social structures, must be respected and encouraged" (Law of Ukraine No. 1616-IX, 2021).

Therefore, the norms of the Declaration proclaimed the basic rights that allow indigenous peoples of the Earth to establish or strengthen their own representative institutions. These institutional bodies, in turn, possess the following rights delegated to them: to represent the legitimate interests of the indigenous peoples who elect them; in cases provided by law, be advisory and consultative bodies for state authorities, be bodies of local self-government, and exercise control functions over the activities of state authorities in matters related to the jurisdiction of indigenous peoples. The bodies, the legal status of which is provided for by the Declaration, traditionally include the unions of tribes of indigenous peoples. The peculiarities of their legal status, which is a combination of their rights, obligations, and responsibilities, depend to a greater extent on the legislation of the country under which these tribal councils (communities) are created and exercise their powers.

Therefore, in accordance with Article 11 of the Constitution of Ukraine, "the state contributes to the consolidation and development of the Ukrainian nation, its historical consciousness, traditions, and culture, as well as the development of the ethnic, cultural, linguistic, and religious identity of all indigenous peoples and national minorities in Ukraine." According to Part 3 of Article 92 of the Constitution of Ukraine, the rights of

indigenous peoples and national minorities are determined exclusively by the laws of Ukraine. The rights and freedoms of the indigenous peoples of Ukraine are regulated and considered by both a national legal system and international law, which guarantees the preservation of their identity, ethnic culture, etc. in Ukraine and in international sphere. The indigenous peoples of Ukraine, adapting to natural and climatic conditions, have developed a mechanism for reproducing their communities. They created a centuries-old culture inherent only in them, being in interrelation with the surrounding environment, having a unique experience of life and survival in full harmony with nature, without disturbing the delicate ecological balance.

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REFORM OF DECENTRALIZATION IN PORTUGAL

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From 1974, with the introduction of the democratic regime, a process of administrative decentralization and local empowerment began, which became part of the general trend ofWestern countries in the 1960s and 1970s. With this new regime the local power establishes itself as fundamental.

This fact is proven by the presence of this power in the Constitution of the Portuguese Republic, in title VIII and composed by 19 articles (from article 235 to 354), dividing the local government with three tiers: administrative regions (Azores and Madeira), which has not been implemented yet in mainland Portugal, “municipalities (308) and parishes (4208) – all of them with directly elected bodies and with politico-administrative and financial autonomy”. This decentralization of power represents a diversification of the centers of national power. According to Maria Almeida “the goal of the new legislators was to create a safety net of several layers of government in order to protect the citizen from the return of another potentially authoritarian regime” and because of it “the decision to decentralize and strengthen local government a the municipal level was quite easily accepted b all political forces at the time”. Nevertheless, ther was no radical change in the political-territorial governance, and centralism remained dominant (Almeida, Maria Antónia Pires de, 2017).

In the European context Portugal is a country of exceptionality, as its local power is concentrated in the municipalities and has no administrative regions, which

accentuates the state's territorial exercise of its powers, revealing the strong centralism and a lack of spatial coordination. In the beginning of the new century, in 2003, the Secretary of State Miguel Relvas implemented a new idea for decentralizing governance. He created the model of Great Urban Areas (in Lisbon and Porto), Urban Communities, and Intermunicipal Communities to address the lack of intermediate levels of governance. Despite the intentions of these measures they generated a poor result and the Prime Minister José Sócrates, in response, promised a new referendum on regionalization which it did not meet as it had more urgent challenges to respond with the beginning of the Portuguese economic recession period. Overall, the government of Sócrates interrupted a process that was already starting to have some dynamism (Oliveira, Carlos, and Isabel Breda-Vázquez., 2018).

Process of decentralization in Portugal entails a process of double blame shifting, in one hand, blaming external impositions through narratives that justify action as inevitable but at the same time a long-desired government action, and, in other hand, transferring more competences (and with this accountability) to lower tiers of government not giving them resources to realize them and like this, they defect blame. So, with this, by decentralizing and retaining the power resources the governments creates the perception of not being responsible and with this avoiding and deflecting the blame (Magone, José M., 2019). Thus, the process of accountability shifts from the central government to local constituents. Political power lies in multiple tiers of governance, and, for that reason, "political actors have incentives to deflect blame to actors at other levels". Political power lies in multiple tiers of governance, and, for that reason, "political actors have incentives to deflect blame to actors at other levels".

Until 2021 the municipalities have, mandatorily, to accept the new competences that were previously responsibility of the central state. What is happening in Portugal is not a true decentralization because the government maintains the political, economic and financial instruments that does not permit the local power to act as they want or need to, and so, the government continues to have the (true) decisional power in its hands (Bouckaert, G. & Kuhlmann, S., 2016). By decentralizing and retaining the power resources the governments create the perception of not being responsible and with this

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THE LEGAL CONCEPT OF COLLABORATION IN UKRAINE

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Despite the fact that such phenomenon as collaboration with the enemy took place even in ancient times, for the first time the term collaborationism was used in relation to the Vichy regime in France and other governments in Europe that worked under the patronage of Nazi Germany during the Second World War.

This phenomenon was considered purely through a historical prism and did not receive sufficient attention from the authorities and the public. It should also be noted that due to the multidimensionality of such a phenomenon, there is no unified approach to understanding collaborationism. The Ukrainian researcher E. Pismenny notes that collaborationism in a single country will differ depending on many factors, namely the tactics of the occupying state, the purpose of the occupation, the level of political and legal awareness, the duration of the occupation, the level of economic development and the degree of cooperation of the population, etc. (Pismennyi,2020)

The question of collaborationism and its criminalization has been raised since 2014, when the Russian Federation annexed Crimea and began to actively use its proxy forces throughout eastern Ukraine. The vast majority of such forces consisted of Ukrainian citizens, from politicians and high-ranking officials to ordinary citizens, who expressed a desire to cooperate with representatives of the aggressor state and created the basis for a full-scale invasion that began on February 24, 2022. The term collaborationism was not legally defined, only on March 3, 2022, the Criminal Code of Ukraine was supplemented with a new article – 111[1] of the Criminal Code of Ukraine "Collaborative Activities" (Criminal, 2022).

The corresponding law describes in detail such a complex phenomenon as collaborationism and identifies several of its forms, or types:

1. Collaborationism is associated with the denial or support of the aggression of the occupying state *(Part 1 of Article 111-1 of the Criminal Code of Ukraine - hereinafter the Criminal Code of Ukraine)* ;
2. Administrative-political collaborationism associated with voluntary employment of positions in bodies created by the occupation authorities, including in the occupation administration *(Parts 3, 5, 7 of Article 111-1 of the Criminal Code of Ukraine);*
3. Information-propaganda collaborationism related to the dissemination of information with the aim of promoting armed aggression against Ukraine and/or whitewashing the reputation of the aggressor state in order to avoid its responsibility. *(Parts 3, 6 of Article 111-1 of the Criminal Code of Ukraine)*;

4. Material technical and economic collaborationism, which is aimed at the transfer of certain resources or the implementation of economic activities in cooperation with the aggressor state or its bodies, other formations.

Regarding Kravchuk and Bondarenko point of view collaborationism in Ukraine is a complex socio-political phenomenon, which is expressed in the deliberate and voluntary cooperation of Ukrainian citizens with the aggressor state and its representatives, which includes informational, political-administrative, economic, and material-technical sphere, and aimed at causing damage to the sovereignty, territorial integrity and inviolability, defense capability, state, economic or informational security of Ukraine.

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PERSPECTIVES OF TAX HARMONIZATION BETWEEN UKRAINE AND THE EU

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“Taxes are the price for civilizational choice” and Ukraine has chosen democracy, freedom and equality developing relations with The European Union (EU). EU has been promoting the harmonization of legislation among its member states including tax policy to prevent tax avoidance and ensure fair business and stable growth. As a

candidate country for EU membership, Ukraine is expected to align its legislation with EU standards in various areas, including tax policy.

The EU does not have a direct role in collecting taxes or setting tax rates. The amount of tax each citizen pays is decided by their national government, along with how the collected taxes are spent. The EU does however, oversee national tax rules in some areas; particularly in relation to EU business and consumer policies, to ensure the free flow of goods, services and capital around the EU (in the single market) (Taxation, n.d.).

Harmonizing Ukrainian legislation with the EU could help prevent tax avoidance by ensuring that companies operating in Ukraine are subject to the same tax rules as companies operating in the EU. This would help to create a level playing field for businesses and prevent them from exploiting differences in tax systems to gain a competitive advantage. However, there are some difficulties in regulating legislation. Some of them are regulation by directives.

Directives by construction leave discretion to the Member States as to how regulations are transposed into legislation. As a result, traditional Europeanization research has focused on whether European Directives are or not transposed into domestic laws, focusing mainly on dates and rates of transposition and the legal compliance of minimum standards (conformance implementation) set by European Directives across different countries (Toshkov, 2010; Treib, 2014). However, this neglects the degree to which policies and recommendations can be modified and the domestic variations, customization, or domestication process (Bugdahn, 2005) that can occur when implementing supranational regulation. Moreover, it neglects that while a Directive can be “perfectly” transposed into national legislation, it might still be practically implemented and applied differently and not function similarly in practice across countries. For example, although by 2005, there was a 98 percent success rate on the transposition of EU Directives, this number does not tell how these Directives were transposed (Mastenbroek, 2005). Finally, as Thomann and Zhelyazkova (2017) point out, “studying legal compliance without considering adaptations of EU policy to

domestic circumstances provides an incomplete picture of EU implementation" (Rossel et al., 2021).

Another side of the problem is companies that can use legislative weakness to avoid of taxation.

Corporate tax avoidance through global profit shifting has become an economic activity in its own right. A large body of evidence (see in particular Nicodème, 2009; Riedel, 2018; Van't Riet & Lejour, 2018) suggests that global corporations exploit cross-border differences in corporate income tax rules. Such corporations take advantage of existing inconsistencies and loopholes within the international tax network through schemes such as transfer pricing, debt shifting, and the strategic allocation of intangible assets across tax jurisdictions. This is especially true in the European Union (EU), which is characterized by free capital mobility and fragmented tax policies. The EU member states set their own rules to define tax bases and tax rates, including tax rebates on certain types of economic activity and/or differential tax treatment of corporate income generated abroad. Under these circumstances, firms can see tax planning as an optimal response to the presence of multiple tax jurisdictions (Barrios et al., 2020).

Firms operating across borders must deal with multiple tax jurisdictions and procedures that require local expertise. These activities impose extra private costs, e.g., paying foreign tax officials and local experts to obtain the information needed to deal with foreign tax systems. The costs related to audits, litigation, and transfer pricing planning are especially relevant for companies with subsidiaries in other EU countries (European Commission, 2004). Multinationals therefore face greater costs than firms that operate only in their own domestic market. These costs can be significant (see Eichfelder & Vaillancourt, 2014 for an extensive review). Tax planning also entails broader economic and social costs. It may distort the allocation of resources (especially capital) and move the economy further away from the theoretical first-best allocation that would be obtained in a no-tax world, thereby harming production efficiency both globally and in the EU (Barrios et al., 2020).

That means harmonizing tax policies is a complex process that requires careful consideration of the potential impact on different stakeholders, including businesses and individual taxpayers. It is important to strike a balance between preventing tax avoidance and ensuring that the tax system remains fair and competitive.

In summary, harmonizing Ukrainian legislation with the EU to prevent tax avoidance is a significant step that could benefit the country's economy in the long term. However, it is important to carefully consider the potential impact on various stakeholders and ensure that the tax system remains fair and competitive.

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WAR CRIMES BY THE AGGRESSOR IN THE RUSSIAN-UKRAINIAN WAR

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Since the beginning of the full-scale invasion of Ukraine, the Russian authorities and armed forces have committed numerous war crimes in the form of deliberate attacks on civilian targets, mass killings of civilians, torture and rape of women and children.

The Russian military inflicted unnecessary harm on civilians by using cluster munitions and firing other explosive weapons with a wide range.

After Russia's withdrawal from the regions north of Kyiv, convincing evidence of war crimes committed by Russian troops was discovered. After their departure, more than *1,200 bodies* of civilians were found in the Kyiv region. There were reports of the forced deportation of thousands of civilians, including children, to Russia, mostly from Russian-occupied Mariupol, as well as sexual violence, including rape, sexual assault and gang-rape, and the deliberate killing of Ukrainian civilians by Russian forces.

On March 2, the *Prosecutor of the International Criminal Court (ICC)* launched a full investigation into past and current allegations of war crimes, crimes against humanity or genocide committed in Ukraine by anyone since November 21, 2013, creating an online method for people with evidence to to initiate contact with investigators, and sent a team of investigators, lawyers and other professionals to Ukraine to begin gathering evidence. On March 17, 2023, the International Criminal Court issued arrest warrants for Vladimir Putin and Maria Oleksiivna Lvova-Belova on charges of involvement in the war crime of child abduction during the invasion of Ukraine.

Shooting of a peaceful convoy in Kupyansk.

On September 30, on the outskirts of the village of Kurylivka (at that time in the so-called "grey zone" between Kupyansk and Svatov), Ukrainian security forces discovered a convoy of six civilian cars and a minibus, killing about 24 people, including a pregnant woman and 13 children. Ukraine accused Russian forces of being criminals. The investigation revealed that civilians were killed around 25 September. The bodies were apparently shot and burned, according to 7 witnesses who managed to escape to the village of Kivsharivka, the column was ambushed by Russian troops on September 25 around 9:00 a.m. while leaving the village of Pishchane through the only road available at that time, after an attack Russian forces reportedly executed those who survived. During the month, the law enforcement officers identified all the victims during the convoy. 22 people managed to escape, 3 of them (including 2 children) were

injured. In the following days, 2 more bodies were found, the final death toll was 26. Some physical evidence (the bodies of the victims and the car) were examined by French experts. Traces of the use of 30-mm and 45-mm high-explosive shells, as well as VOG-17 and VOG-25 grenades were found.

Sexual violence

According to experts and Ukrainian officials, there are indications that the Russian command tolerated sexual violence and systematically used it as a weapon of war. Following Russia's withdrawal from areas north of Kyiv, there has been "a growing body of evidence" of rape, torture and extrajudicial killings by Russian forces against Ukrainian civilians, including gang rapes committed with weapons and rapes committed in front of children.

In early June, the Monitoring Mission received reports of *124 episodes* of conflict-related sexual violence committed against women, girls, men and boys in various cities and regions of Ukraine. At the end of March, the Prosecutor General's Office of Ukraine began an investigation into the case of a Russian soldier accused of murdering an unarmed civilian and then repeatedly raping the victim's wife. The incident allegedly happened on March 9 in the village of Shevchenkove near Kyiv. The wife said that two Russian soldiers raped her repeatedly after killing her husband and the family dog while her four-year-old son hid in the house's boiler room.

Russian spokesman Dmitry Peskov dismissed the claim as a lie. Ukrainian authorities have said that numerous reports of sexual violence and rape by Russian forces have emerged since the invasion began in February 2022. People's deputy of Ukraine Maria Mezentseva said that such cases were little reported and that there are many other victims.

As of July 5, the UN Human Rights Monitoring Mission in Ukraine has verified 28 cases of conflict-related sexual violence, including rape, gang rape, torture, forced public undressing, and threats of sexual violence. OHCHR reported that 11 cases, including rape and gang rape, were committed by Russian armed forces and law enforcement agencies. In addition, due to limited connectivity, especially with

territories under Russian control, access remains a major barrier to verifying cases, and the exact number of sexual assault cases has been difficult to track. Reports of sexual violence reached Ukrainian and international authorities, law enforcement agencies and media workers as Russian troops retreated.

At the end of September 2022, the investigative team of the Independent International Commission of Inquiry to investigate the situation in Ukraine released a statement saying that the commission "documented cases of rape, torture and illegal imprisonment of children." and called it war crimes. The same report also cited children who were killed and injured by indiscriminate Russian attacks, as well as forced family separation and abduction.

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THE DEVELOPMENT OF CRIMINAL PROCEDURAL LEGISLATION

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Criminal procedural legislation, along with other sectors of the legal field, has gone a long way in development. Today, the criminal process should be understood as the field of law, which includes a set of criminal procedural norms that regulate social relations in the sphere of activities of pre-trial investigation bodies, the prosecutor's office and the court, as well as other natural and legal persons involved in the field of criminal justice, during criminal proceedings. It is worth noting that it is the criminal process that plays one of the leading spheres of state activity, which in one way or another ensures the functioning of law and order in the state and society. The Constitution of Ukraine of 1996 not only proclaimed human rights but also provided for their guarantees against unjustified restrictions, the main ones being judicial. If, before the adoption of the Constitution of Ukraine, the main guarantor of a person’s rights in pre-trial proceedings was a prosecutor who authorised sanctions for detention, search, and seizure of correspondence, now, the guarantor of these and other fundamental rights is the court (judge). The importance of this stage for the development of the criminal process in Ukraine is, first of all, that during this period, considerable work was done to systematise the criminal procedure legislation of Ukraine. As a result of this work, taking into account the Constitution of Ukraine, international legal acts on human rights

and justice, and decisions of the European Court of Human Rights, the first new Criminal Procedure Code in independent Ukraine was adopted, which is a kind of procedural constitution defining the due process for bodies and persons conducting criminal proceedings and for individuals and legal entities involved in criminal proceedings. Emphasising the importance of the CrPC of Ukraine, the legislator stressed that the laws and other regulations of Ukraine, the provisions of which relate to crime, should ensure the prompt, complete, and impartial pre-trial investigation and that trial proceedings must comply with this Code. When conducting criminal proceedings, a law that contradicts this Code may not be applied (Part 3 of Art. 9 of the CrPC).

As for historical aspects, the criminal procedural legislation of our country, along with other branches, begins with the fundamental principles of customary law, as well as established legal traditions. Starting from the era of customary law, the key norms of law and morality were actually identified. Subsequently, the history of criminal procedural law actively developed and adapted to the relevant historical prerequisites, but the rising moment was the adoption of the KPK of the Ukrainian SSR in 1960, which definitely became an ultra-progressive step in the development of domestic criminal procedural legislation, which first of all approached the vector of democratization of the principles of criminal justice.

One of the most significant achievements was the fact that in the history of the development of the entire system of Soviet law, the criminal procedural codes of the Union republics formulated requirements for the bodies of inquiry, the investigator, the prosecutor and the court - to identify during the proceedings in the case the reasons and conditions that contributed to the commission of the crime, and take measures to eliminate them. In addition, it is worth noting that active processes aimed at expanding the active direct participation of the public in the fight against crime were carried out.

An interesting aspect seems to be the new attitude to the traditional, historically developed forms of public involvement in the work of the court in the form of separately defined institutes of people's assessors, public prosecutors and public defenders. According to this legal formula, all the bases of criminal justice and the CPC of the Union republics extended the rights of the accused and his defense attorney as

widely as possible, including by admitting the latter to the preliminary investigation stage (Decree of the President of Ukraine, 2011).

It is worth highlighting the fact that the rights of the victim and other participants in the criminal process were also significantly expanded. Nevertheless, many changes were made to this law, among which the most important changes are those after the declaration of Ukraine's independence, in particular, it concerns the issue of strengthening the court's procedural control over the actions of pre-trial investigation bodies, as well as the added rule that requires detention in all cases persons must notify the relatives or loved ones of the detainee.

In order to maintain a balance between the side of the prosecution and the side of the defense, the possibility to appeal the decision of the investigator, the inquiry body, the prosecutor on the refusal to initiate or close a criminal case, etc. was added.

These changes are extremely necessary, since legal standards in the state have fundamentally changed and have chosen the path of democratization of political and legal processes in Ukraine, primarily in the state system, a bet on the integration of domestic legislation into European legal standards (Supreme Council of Ukraine, 2014).

As for the doctrinal aspects, scientists have repeatedly drawn attention to the fact that the CPC of Ukraine of 1960 could no longer fully maintain the balance of social and legal relations in the criminal procedural sphere. It was then that the process of adopting a new procedural law began, which was embodied in the CCP adopted in 2012.

The first thing that draws attention to is the principles of criminal proceedings enshrined in the law. In addition, it is worth briefly interpreting the general changes compared to the previous code, namely: there is no stage of initiation of a criminal case, the stages of inquiry and pre-trial investigation are combined into one - a pre-trial investigation, which begins from the moment of entering information into the Unified Register of Pre-trial Investigations; a new form of activity of the prosecutor was introduced - supervision in the form of procedural management; new subjects of criminal proceedings appeared (investigating judge, jury trial), the institution of agreements, etc. was introduced (Supreme Council of Ukraine, 1960).

Thus, the tendency to regulate these social relations has positive dynamics and is increasingly inherent in the modern stage of the development of criminal procedural science and the development of historical forms of the criminal process in the vector of the development of international legal standards. Moreover, the mentioned changes are caused by a serious complication of social and political processes, which must be regulated at the legislative level, which in turn forces the legislator to more specifically detail the relevant criminal procedural actions. Nevertheless, not only the regulatory approach provides an opportunity to adapt to modern challenges, because judicial practice.

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EVASION OF CONSCRIPTION FOR MILITARY SERVICE DURING MOBILIZATION

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According to the Laws of Ukraine "On Mobilization Training and Mobilization", "On Military Duty and Military Service", citizens who evade conscription for

mobilization and military registration bear administrative and criminal liability in accordance with the law. Liability depends on the offense committed.

The Law on Criminal Liability provides for a number of articles that establish types of offenses in the field of ensuring conscription and mobilization.

– Article 336 of the Criminal Code of Ukraine (the most common) – evasion of conscription for military service during mobilization, for a special period, for military service following the conscription of reservists during a special period.

Evasion of conscription for military service during mobilization, for a special period, for military service following the conscription of reservists in a special period – is punishable by imprisonment for a term of three to five years.

The subject of the crime provided for in Article 336 of the Criminal Code of Ukraine is a person conscripted for military service, if he was properly informed in accordance with the procedure established by law about the obligation to appear for general mobilization at the conscription area of a certain recruitment and social support center, and the person evaded conscription on military service during mobilization.

To qualify the actions of a person under Article 366 of the Criminal Code of Ukraine, it is necessary:

establish intent and purpose in evading conscription during mobilization;

establish an illegal refusal to pass a military medical commission.

Court practice was formulated quite quickly in this area, as of September 28, 2022, the Unified State Register of Court Decisions contains 86 verdicts on criminal offenses provided for in Article 336 of the Criminal Code of Ukraine. At the same time, there is no acquittal, all persons admitted their guilt.

– Article 336-1 of the Criminal Code of Ukraine – evasion of civil protection service during a special period or in case of targeted mobilization;

Evading civil defense service during a special period (except for the reconstruction period) or in the case of targeted mobilization is punishable by imprisonment for a term of two to five years.

– Article 337 of the Criminal Code of Ukraine – evasion of military registration or educational (special) fees.

Evasion of a conscript, conscript, reservist from military registration after a warning issued by the relevant head of the territorial recruitment and social support center, the heads of relevant bodies of the Security Service of Ukraine, relevant divisions of the Foreign Intelligence Service of Ukraine, is punishable by a fine of three hundred to five hundred tax-free minimum incomes citizens or correctional works for a period of up to one year.

Evasion of a conscript or a reservist from training (special) fees is punishable by a fine of five hundred to seven hundred tax-free minimum incomes of citizens or corrective labor for a term of up to two years.

– Article 335 of the Criminal Code of Ukraine – evasion of conscription for military service, military service by conscription of officers.

Evasion of conscription for military service, military service by conscription of officers – is punishable by restriction of freedom for a term of up to three years.

According to the Laws of Ukraine "On Mobilization Training and Mobilization", "On Military Duty and Military Service", citizens who evade conscription for mobilization and military registration bear administrative and criminal liability in accordance with the law.

Liability depends on the offense committed.

For example, if a conscript evades a summons to check military records, then administrative responsibility applies to him - fines in the amount of 510 to 1,700 hryvnias.

If the conscript came to check the military registration data, the medical commission for the draft and avoided being sent to the ranks of the Armed Forces of Ukraine in a military unit, then in this case criminal liability arises.

But even the onset of criminal liability does not prevent the petitioner from being called up to the ranks of the Armed Forces

The existence of a conviction for evading mobilization is not an obstacle to further mobilization of such a person.

That is, even if a conscript was convicted of evading mobilization under Article 336 of the Criminal Code and released from serving his sentence, he can be called up to the ranks of the Armed Forces.

According to Clause 9 of Article 14 of the Law "On Military Duty and Military Service", those conscripted citizens who, in particular, were previously sentenced to deprivation of liberty, restriction of liberty, arrest or correctional labor for committing a criminal offense, are taken into military registration , a minor crime, including with exemption from serving a sentence.

According to Clause 4 of Article 12 of the Criminal Code, a non-serious crime is an act for which the main punishment is prescribed in the form of a fine of no more than 10,000 tax-free minimum incomes of citizens or imprisonment for a term of no more than 5 years.

And since, according to the Criminal Code, the evader is punished by imprisonment for a term of 3 to 5 years, evasion of the draft for military service during mobilization is considered a minor crime.

That is, the Ministry of Defense emphasized that if a citizen was even previously sentenced to imprisonment for committing a minor crime, including with exemption from serving the sentence, and is in the military reserve and is not reserved in the established order for the period of mobilization, he is subject to conscription.

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DUPLICATION OF POWERS IN THE CIVIL SERVICE ON ISSUES OF WEIGHT-AND-DIMENSIONAL CONTROL

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One of the main conditions for Ukraine's rapid economic development is the introduction and protection of capitalist relations which cannot exist without the construction and subsequent maintenance of roads. Recognizing this, the state has introduced a mechanism of weight-and-dimensional control to keep roads in good condition but it has a number of drawbacks.

Thus, until 10.09.2014, the State Inspectorate of Ukraine for Land Transport Safety (hereinafter – "Ukrtransinspection") carried out the weight-and-dimensional control and implemented the state policy on land transport safety in accordance with the *Regulation "On the State Inspection of Ukraine for Land Transport Safety"* approved by the Resolution of the Cabinet of Ministers of Ukraine dated 17.07.2014 No. 299.

By the *Resolution of the Cabinet of Ministers of Ukraine "On Optimization of the System of Central Executive Bodies"* No. 442 dated 10.09.2014, the Ukrtransinspection was terminated and reorganized into the State Service of Ukraine for Transport Safety (hereinafter – "Ukrtransbezpeka"), which in turn was created by merging the State Inspectorate for Safety on Sea and River Transport with the Ukrtransinspection.

The establishment of Ukrtransbezpeka entailed the vesting of this body with the authority to carry out weight-and-dimensional control and implement state policy on land transport safety, which is enshrined in the *Regulation "On the State Service of Ukraine for Transport Safety"* approved by the Resolution of the Cabinet of Ministers of Ukraine of 11.02.2015 No. 103.

The imperfect rule-making activities of the Cabinet of Ministers of Ukraine have allowed the existence of a problem of competition between the "former" (Ukrtransinspection) and "new" (Ukrtransbezpeka) subjects of weight-and-dimensional control since Ukrtransinspection and Ukrtransbezpeka currently exist, and none of these

bodies is terminated according to the information of the *Unified State Register of Enterprises and Organizations of Ukraine*. Their legal status and activities are still regulated by the current legal acts of equal legal force.

This state of affairs in practice leads to a large number of law enforcement problems. For example, until 02.02.2022, there was a problem of legal regulation with the issuer of the international certificate of weighing of freight vehicles.

In accordance with clause 18 of the Procedure approved by the *Resolution of the Cabinet of Ministers of Ukraine* No. 879 dated 27.06.2007 (the version of the law until 04.02.2022), until 02.02.2022, in Ukraine, if the driver of a vehicle presented an international weighing certificate, weight-and-dimensional control in terms of weighing was not carried out. (This procedure was supplemented by clause 18 of the *Resolution of the Cabinet of Ministers of Ukraine* No. 671 dated August 30, 2017).

The Regulation on Ukrtransbezpeka indicates that this de facto operating body did not have the authority to issue the above-mentioned international certificates.

Instead, the de facto non-functioning "Ukrtransinspection" is still authorized to issue such an international certificate. Accordingly, there was a problem when the de facto operating Ukrtransbezpeka did not have the authority to issue these international certificates, and only the legally existing Ukrtransinspection had such authority, although it did not actually exercise it.

Another problem with this uncertainty is that the courts use the legal acts regulating the activities of the Ukrtransinspection as sources of law to confirm the powers of Ukrtransbezpeka.

The most striking example of such an incorrect application of sources of law is the legal position of the Supreme Court, set forth in the *Resolution of the Supreme Court of Cassation* of 28.04. 2022 in case No. 540/383/21, where the court used the *"Procedure for Interaction of the State Inspection of Ukraine for Land Transport Safety, the Ministry of Internal Affairs of Ukraine...*" of 10.10.2013 No. 1007/1207, registered by the Ministry of Justice of Ukraine on 04.02.2014 under No. 215/24992 (hereinafter - Procedure No. 1007/1207) as a confirmation of the powers of Ukrtransbezpeka in the field of weight-and-dimensional control.

However, in any case, it should be noted that the Cabinet of Ministers of Ukraine tried to solve this problem of uncertainty on the subject of weight-and-dimensional control.

Thus, in clause 5 of the *Resolution of the Cabinet of Ministers of Ukraine "On Optimization of the System of Central Executive Authorities"* No. 442 dated 10.09.2014, the Government enshrined the provision according to which central executive authorities formed by reorganization of other central executive authorities are legal successors of the bodies that are reorganized. It seems that the analysis of this provision solves the above problem by itself, but this is only at first glance, since there are not all the necessary conditions for the succession of Ukrtransinspection, since the successor and the predecessor still legally exist, exercise their powers and the regulatory framework of these two entities is still in force and has the same legal force.

Moreover, the simultaneous legal existence of Ukrtransinspection and Ukrtransbezpeka contradicts the current legislation.

Pursuant to clause 8 of the *Procedure for the implementation of measures related to the establishment, reorganization or liquidation of ministries and other central executive authorities*, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 1074 of 20.10.2011, as a result of reorganization (merger, accession, division, transformation) of executive authorities, the executive authority whose property rights and obligations are transferred to its successors is terminated.

In the current situation, none of these bodies has been terminated as a result of the reorganization, which raises doubts as to the legality of the transfer of rights and obligations from Ukrtransinspection to Ukrtransbezpeka.

Based on the foregoing, the following conclusions should be drawn: despite the fact that maintaining roads in proper condition is an important task of the State of Ukraine, the Government due to its own imperfect rulemaking, has allowed the existence of contradictions and inconsistencies in the issue of the subjective composition of the weight-and-dimensional control, which leads to a number of other law enforcement problems, thereby creating a "snowball" of legal problems in law enforcement practice.

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LEGISLATIVE AND PRACTICAL ISSUES OF PRE-TRIAL DETENTION IN CRIMINAL PROCEDURE UNDER MARTIAL LAW

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Introduction. Martial law is a measure taken by the government during times of emergency to suspend normal civil law and replace it with military law. Other definitions may conclude that it is when military authority rises superior to the civil in the exercise of some or all functions of the government (Fairman, 1928). In this article, we will examine how martial law affects criminal procedure and detention as precautionary measure in criminal procedure in particular.

Topicality. The relevance of this research is based on the fact that detention is considered to be the strictest and widespread form of a precautionary measure taken in the criminal procedure of Ukraine (Valko V., 2020). Additional actuality arises because of dynamic character of the abovementioned field of law and the start of full-scale war. The latter complicates pre-trial investigation due to many factors and such complication may obscure the way to justice and lead to possible infringement of human rights, especially during prolonged, biased or baseless detention.

Literature review. In this research the theoretical and practical sources such as works of Fomina T., Rogalska V., Harkusha A. and judicial decisions will be used.

Different aspects of a detention as a procedure were also analyzed in the researches of Y.Groshevy, A. Dal, O. Kaplina, M. Pohoretskyi, V. Topchii, O. Shilo.

Results of the research. The first issue that has been discovered during the research is the imposition of detention as a precautionary measure without possible alternatives in certain situations. In Article 183 of the Criminal Procedure Code of Ukraine it is stated that the detention is an *exceptional* precautionary measure and is applied only if the prosecutor proves that none of the milder preventive measures will be able to prevent the risks specified in Article 177 of this Code, except for the cases named in parts 6 and 7 of Article 176 of this Code (Criminal Procedure Code of Ukraine, 2022). After analyzing exceptions mentioned above, we can conclude that under martial law, to persons suspected or accused of committing crimes provided in Articles 109-114-2, 258-258-5, 260, 261, 437-442, if there are risks mentioned in Article 177, the only applicable preventive measure is detention. It is worth mentioning that under part 7 of Article 176, military servicemen suspected or accused of committing crimes provided in Articles 402-405, 407, 408, 429 should inevitably undergo detention.

We should also mention that there is previous Ukrainian experience to impose pretrial detention without alternative measures for individuals accused or suspected of committing specific crimes. However, the constitutionality of Article 176, paragraph 5 of the Criminal Procedure Code of Ukraine was challenged and ultimately deemed unconstitutional. This decision was made in recognition of the importance of protecting the rights of the accused, which is a fundamental principle of the Basic Law. T. Fomina and V. Rogalska have elaborated on this issue in their article, providing a comprehensive analysis of the practice of the European Court of Human Rights regarding the use of pretrial detention. They argued that the unconditional imposition of pretrial detention is not consistent with the principles of the Basic Law and highlighted the importance of respecting the human rights of the accused. The authors also stated that the decision to detain a person who is suspected or accused of committing the crimes must be reasoned, which takes into account all the circumstances of the criminal

proceedings, and not the one issued with the formalization of normative prescriptions (Fomina T. and Rogalska V., 2022).

It is possible to discover similar statements in the judicial decisions of the European Court of Human Rights. In one of the cases, the Court found violation of Article 5, § 3 of the Convention and stated that: “Furthermore, at no stage did the domestic authorities consider any other preventive measures as an alternative to detention” (Kharchenko v. Ukraine, § 80). In other decisions the Court also notes that absence of alternatives is a violation: “Neither was any consideration given to less stringent measures, such as an undertaking not to abscond or bail, which could have ensured the applicant’s availability for the investigations and the trial” and “Accordingly, the Court finds that there has been a violation of Article 5, § 1 of the Convention” (Khayredinov v. Ukraine, §29,31).

Overall, the issue of pretrial detention without the alternative measures for the individuals accused of certain crimes is a complex issue that requires a balance between the interests of the state and the protection of individual rights. The practice of the European Court of Human Rights provides a valuable framework for addressing this issue, and it is essential that Ukrainian legislators take these principles into account when considering future legislation on this matter.

Next issue that is worth noticing is the Article 616 of the Criminal Procedure Code of Ukraine, which establishes specific provisions for cancelling preventive measures for military conscription during mobilization, special periods or for other reasons during pre-trial and court proceedings.

Given that paragraph 3 of Article 616 of the Criminal Procedure Code of Ukraine stipulates that the motion must include details regarding the lack of risks outlined in Article 177 of the Criminal Procedure Code of Ukraine, it raises a legitimate question about the justification of the preventive measure enforced on an individual and the court ruling that implemented it, in the first place, or the practicality of revoking the preventive measure in accordance with the standard regulations of the Criminal Procedure Code of Ukraine.

The other gap in the analyzed norm is the fact that the timeframe for the prosecutor to review the motion of the suspect or the accused regarding military service is not stipulated, which can result in delaying the decision-making process with the aim of obtaining illicit benefits by a public official or achieving other objectives to satisfy personal interests. Thus, there is a noticeable corrupt component in Article 616 of the Criminal Procedure Code of Ukraine (Harkusha, 2022).

Conclusion. It has been discussed how martial law affects criminal procedure and detention as a precautionary measure in criminal procedure in particular. The imposition of detention as a precautionary measure without possible alternatives in certain situations, under the martial law, is addressed. The abstract examines the exceptions to the rule of detention and points out that there is previous Ukrainian experience of imposing pretrial detention without alternative measures for individuals accused or suspected of committing specific crimes, which was deemed unconstitutional. We have discovered gaps in application of Article 616 and concluded that additional research should be conducted in order to continue the endless search for a balance between the interests of the state and the protection of individual rights.

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ASSOCIATION AGREEMENT BETWEEN UKRAINE AND THE EUROPEAN UNION

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Since the declaration of independence in 1991, Ukraine as a full-fledged participant in international relations tries to develop its own integration way in the global economic and political area, thus to be able to show its global competitiveness (Shportyuk V., Movchan V., 2007, p. 1).

The legal reform, currently carried out in Ukraine, envisages qualitative transformations in the sphere of national legislation adaptation to the universal standards of European Union practice. Particularly, among the pragmatic results of this reform is the adopted Association Agreement between EU and Ukraine, which is designed to fully address the gaps in the regulation of various relations, namely domestic economic development and financial investment processes.

Now we should specify the political and legal nature of the European Union. So, an expert Khaydarali Yunusov has rightly pointed out that “the EU as an economic and political union is a structure of intricate political and legal nature” (Yunusov, 2014). According to Joaquín Roy and Roberto Domínguez opinion, “Even the most developed institutional exercise of regional integration, the European Union, is commonly

overwhelmed by the contradictions and obstacles of the institutional architecture and the interests of the member states" (Roy, 2015, p. 7).

Ideally, there are various approaches to the political and legal nature of the EU as a regional organization. In this vein, as the Ukrainian professor Yakovyuk pointed out, the EU is a "supra-national" organization (Yakovyuk, 2006, p. 21). In this context, the "supra-national" nature according to Jackson Krase can be explained by the "institutional set-up of the European Commission, the European Parliament, and the Court of Justice of the European Union, as well as how the policy process in undertaken, especially since the start of the European debt crisis in 2009" (Krase, 2017).

At the same time, the EU's policy overall aim is to the integration of domestic economies of countries situated on the European continent. The Amsterdam Treaty stipulates the Union shall set itself the following economic objective which is "to promote economic and social progress and a high level of employment and to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and the establishment of economic and monetary union, ultimately including a single currency by the provisions of this Treaty" (European Union Treaty of Amsterdam, 1997).

In order to understand the current Ukrainian situation, special consideration should be given to the historical preconditions of this phenomenon. So, we need to analyze the historical development EU-Ukraine relationships.

In November 2013 Ukraine proclaimed its aim to join EU structures and included European integration vector among its priorities (Bruns, Happ, Zichner, 2016, p. 119). Playing a key role in the international arena, the EU has powerful tools that this supranational organization for influencing political and economic developments in neighbouring countries (Forbrig J., 2015, p. 1). Various intensified political, social and economic processes are integral for the EU and other intergovernmental organizations **(United Nations, NATO, OSCE etc.)** to determine the "future destiny" of Ukraine (Melnyk, 2015).

On 27 June 2014, the signature ceremony of the bilateral Association Agreements (AAs) between een EU and Ukraine, Moldova and Georgia came to its logical conclusion. Then, on 25 March 2015, Ukraine announced the regular Progress Report for 2014. This document was focused on progress made between 1 January and 31 December 2014 regarding the implementation of the EU-Ukraine Association Agenda. Also, it contained the relevant developments in the adaptation sphere. Particularly, this was not a general assessment of the political and economic situation in Ukraine. Information on regional and multilateral sector issues also was addressed in the Eastern Partnership (Implementation Report Implementation of the European Neighbourhood Policy in Ukraine, 2015).

On 27 April 2015, the EU-Ukraine Summit was held in Kyiv. The European Union was represented by President of the European Council Donald Tusk and President of the European Commission Jean-Claude Juncker. It was the first Summit that was held in the framework of the EU-Ukraine AA, the implementation of which demonstrated a fundamental step in the facilitation process of political association and economic integration of Ukraine with the EU based on respect common values and their effective promotion (17th EU-Ukraine Summit, 2015).

On 8 May 2015, the fifth progress report on the Ukrainian implementation of the action plan regarding visa liberalization had been published (The European Union, 2016). On 3 July 2015 between EU and Ukraine was signed the Memorandum of Understanding between both parliaments. The parties of this cooperation have agreed to work towards the implementation of the EU-Ukraine AA (Memorandum of Understanding between the European Parliament and the Verkhovna Rada, 2015).

From the legal point of view, the AA is considered to be the most important tool for the Ukrainian internal reforms. Thus, on July 11, 2017, the Council of the European Union completed the process of ratification of the Ukraine – EU AA (Council of the EU, Press Release 458/17, 2015). Notably, the EU-Ukraine AA by its very nature is a complex and comprehensive legal instrument intended to set the guidelines for such economic areas as (1) Trade and trade-related matters, essentially the *Deep and*

Comprehensive Free Trade Areas; (2) Economic and sector cooperation (EU-Ukraine Association Agreement "Quick Guide to the Association Agreement", 2016).

Against this background, in the framework of EU-Ukraine cooperation, the Deep and Comprehensive Free Trade Agreement (DCFTA) has been provisionally applied since 1 January 2016. Nowadays, being an essential part of the EU-Ukraine AA, the DCFTA is considered to be one of the EU's most ambitious bilateral agreements. Provisions stipulated in DCFTA serve as a benchmark for the gradual and partial integration of Ukraine into the EU internal market.

It is a well-known fact that Ukraine aims to become an EU member. Unfortunately, today's national economy fails to meet the EU requirements, namely its economic membership criteria. The EU-Ukraine AA must be perceived as an important step towards the final integration of Ukraine into the EU. In other words, the EU-Ukraine AA, including its Deep and Comprehensive Free Trade Area (DCFTA) part, is considered to be a key legal tool for the approximation of Ukrainian practices to the EU standards.

This agreement provides for both parties' significant trade advantages: to pave the way for the mutual opening of their markets for goods and services with the application of predictable and enforceable trade rules. Also, this target provides Ukraine a framework for the modernization its trade relations and fosters its economic development through the opening of markets along with the gradual removal of tariffs and quotas. It is equally important that this agreement establishes a comprehensive background for the extensive harmonization of laws, norms, and regulations in various trade-related sectors, thus creating a set of conditions for adaptation of key national economic sectors to well-recognized EU standards. From this perspective, it is of paramount importance to research the current social, political and economic changes in Ukraine according to the Economic Part of AA.

Thus, the full Association Agreement between Ukraine and the EU entered into force on September 1, 2017. This is an international legal document, which at the contractual and legal level establishes the transition of relations between Ukraine and

the EU from partnership and cooperation to political association and economic integration.

The agreement shall be of unlimited duration and shall remain in force indefinitely. It has about 2000 pages, and consists of a preamble, seven parts, 43 supplements and three protocols.

The agreement encompasses various aspects of cooperation, in particular:

• Approximation of Ukraine and the EU based on common values, which means Ukraine's approach to European standards in the field of law and internal affairs, democracy and human rights, fighting corruption, and justice should comply with main European Community requirements;

• Increased participation of Ukraine in EU programs; establishment of cooperation and cooperation in more than 30 sectors of the economy and social sphere (industry, agriculture, energy, space, etc.);

• Providing financial assistance to reforms in Ukraine.

The free trade zone provides:

• Free (without duties and quantitative restrictions) trade in goods and services;

• Simplification of the regime of mutual investments and movement of people (including labour);

• Approximation (adaptation and harmonization) of Ukrainian regulatory norms in the economic sphere to the relevant EU standards;

The EU is an important trading partner of Ukraine; over the past few years, the share of EU countries in Ukraine's trade and investment has significantly grown. The Association agreement was the result of the evolutionary development of Ukrainian-European relations and has united in itself various areas of cooperation previously stipulated in several other documents.

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THE SYSTEM OF LOCAL TAXES AND FEES FORMATION

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Local budgets are the financial basis of local governments to meet the vital needs and legitimate interests of the territorial community. The independence of budgets is primarily ensured by the availability of their own sources of income, the right of local

governments to determine the use of their own budget funds, independently consider, and approve the relevant local budgets.

The reforms of tax legislation, the dynamics of transformation of national taxes and fees into local ones and formation of the revenue part of the budgets outlined a range of issues that require practical and theoretical solutions.

According to the provisions of the Budget Code of Ukraine, tax and non-tax revenues, capital transactions, and transfers are the source of local budget revenues (Budget Code of Ukraine, 2023). Local taxes and fees have a significant impact on the share of financial revenues. In essence, local taxes and fees are divided into national and local. The peculiarity of local taxes and fees is that they remain in local budgets in full, while national taxes, depending on the type, are transferred to community budgets only in a certain percentage. The Tax Code of Ukraine stipulates that the payers of local taxes and fees are individuals and legal entities, and the object of taxation is property, income and services received by taxpayers (Tax Code of Ukraine, 2023).

The actions of local authorities must be carried out in accordance with the provisions of the Tax Code of Ukraine. Thus, according to Clause 12.3 of Article 12 of the Tax Code, councils are authorized to make decisions on the establishment of local taxes, tax benefits for the payment of local taxes and fees by July 15 of the year preceding the budget period in which the established local taxes and/or fees are planned to be applied, and on amending such decisions. When making such decisions, the following points have to be determined:

- the object of taxation;
- taxpayer;
- tax rate;
- tax period;
- term and procedure of tax payment;
- tax base;
- list of tax agents for the tourist tax (Tax Code of Ukraine, 2023).

At least a part of the financial resources of local self-government bodies is formed at the expense of local taxes and fees, they have the authority to establish the

amount of them within the limits of the law. The financial systems that underpin the resources of local governments are sufficiently diversified and sustainable and should enable them to bring their resources, as far as practicable, in line with the real growth in the cost of their tasks (Budget Code of Ukraine, 2023). The peculiarity of local taxes and fees is that they remain in local budgets in full, while national taxes, depending on the type, go to community budgets only in a certain percentage. According to Paragraphs 24, 28, 35, Part 1, Article 26 of the Law of Ukraine "On Local Self-Government", the exclusive competence of village, town and city councils includes:

1) establishment of local taxes and fees;

2) granting benefits for local taxes and fees, as well as land tax;

3) approval of land tax rates (On Local Self-Government, 2023).

Local councils are prohibited from establishing individual preferential rates of local taxes and fees for certain legal entities and individuals – entrepreneurs and individuals – or exempting them from paying such taxes and fees. The grounds for granting tax privileges are the peculiarities characterizing a certain group of taxpayers, their type of activity, the object of taxation or the nature and social significance of the expenses made by them. According to the provisions of Article 10 of the Tax Code of Ukraine, property tax, single tax, fee for parking spaces, and tourist tax are local taxes and fees (Tax Code of Ukraine, 2023). At the same time, there is a direct prohibition on the establishment of taxes and fees not provided for by the Tax Code.

In the context of decentralization, the financial independence of local governments is of key importance. Today, the social and economic development of regions depends on funds received from the state. Local taxes and fees are the sources of revenues for the budgets of villages, towns, and cities that help strengthen local budgets, reduce dependence on funds received from the state, and allow local governments to choose development vectors and direct financial resources to the public needs of the residents of a particular administrative unit. To summarize, it can be argued that the availability of own sources of revenue to local budgets is one of the main factors that will help local governments become more autonomous and enable them to

make decisions on financing those areas that are necessary for each territorial community.

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CRIMINOLOGY STUDY OF COLLABORATIVE ACTIVITIES

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The relevance of legal regulation and protection of the sphere of national security, despite the level of development and humanism of humanity, does not require additional argumentation, which has been unconditionally confirmed by the challenges faced by the Ukrainian community and the entire civilized world. On March 15, the Law of Ukraine dated March 3, 2022 No. 2108-IX «On Amendments to Certain Legislative Acts of Ukraine Regarding Establishing Criminal Liability for Collaborative Activities» entered into force, which provides for the definition of a number of criminally punishable acts that contribute to the spread of armed aggression on the territory of Ukraine. The mentioned amendment to the criminal legislation includes a number of criminal offences: public denial of armed aggression, calls for support for the decisions and/or actions of the aggressor state, rejection of the state sovereignty of Ukraine in the temporarily occupied territories; occupying positions in illegal authorities created in temporarily occupied territories; propaganda in educational institutions; transfer of material resources to illegal armed or paramilitary formations created in the temporarily

occupied territory and/or armed or paramilitary formations of the aggressor state; voluntary occupation by a citizen of Ukraine of a position in illegal judicial or law enforcement bodies, etc. So, in one form or another, collaborative activity represents cooperation with the aggressor state.

Due to the lack of a definition, we consider it necessary to analyze the concept of collaborative activity and offer our own view on the essence of the specified category.

First, it is considered more appropriate to study the concept of activity. According to the Great Explanatory Dictionary of the Modern Ukrainian Language, the following interpretations are proposed:

- applying one's work to something;
- work, actions of people in any field;
- detection of the power, and energy of something (Busel, 2005).

The above definitions lead to the idea of understanding activity as an active realization of human will. Thus, purposeful human behavior should be considered an activity. At the same time, collaborative activity is a manifestation of criminal behavior, so we are not interested in any activity in general, but only that which qualifies as criminal.

Thus, according to the Great Explanatory Dictionary of the Modern Ukrainian Language, there is no definition of «collaborative activity» and «collaborative», but the following definition is indicated: *«Collaborationism is a cooperation with the fascist invaders in the countries occupied by them during the Second World War»* (Busel, 2005). Collaborationism according to the Encyclopedia of Modern Ukraine by S.I. Hrabovsky means *«conscious, voluntary and deliberate cooperation with the enemy in his interests and to the detriment of his state and its allies».*

It should be said that for the first time, the concept of collaborationism was used to qualify the cooperation of the French with the German authorities during the occupation of France during the Second World War, although it is well known that not only the voluntary cooperation of the French but also the Danes, Norwegians, Swiss and other nations collaborated with the Germans under the conditions of occupation of their countries. At the same time, cooperation with the enemy is not only characteristic of the

period of the Second World War, it is as old a phenomenon as war and the occupation of foreign territory in general.

There is no general agreement on the definition of collaboration, and it is used differently in historiography. Some authors even call not to use it at all as an analytical category because of its derogatory moral and political connotations and often polemical use [3]. In the scientific sense, this term means various forms of cooperation between the occupation authorities and the local population and their elites. There is no one exact definition of collaboration. This term is used to denote both political cooperation with the occupier and service in the armed forces (military, functional collaboration) under the Nazi command.

It is obvious that in the difficult conditions of martial law, the appearance of a new criminal offense of "collaborative activity" is a logically determined consequence of the present, therefore, of course, the study of the criminological characteristics of such an act is an actual topic, because it has great theoretical and practical value.

We should start with the fact that the level of public danger of collaborative activity is stipulated by the fact that this criminal offense is assigned to the section of crimes against the foundations of national security. In addition, of course, collaborationism causes significant damage to the sovereignty, territorial integrity and inviolability, defense capability, state, economic or informational security of Ukraine.
After all, the massive spread of cases of collaborationism testifies to a number of disappointing conclusions: the incompleteness of the processes of civil society formation; failure to achieve the required level of national consolidation of citizens; vulnerability of the sphere of information security (Myslivy, 2022). The irrevocable confirmation of the existence of the specified problems and systematic manifestations of criminal cooperation of Ukrainian citizens with the aggressor country, armed formations and/or the occupation administration of the aggressor state led to the need to take immediate measures to criminalize the specified acts.

One of the main features of the criminological characteristics of a collaborator is voluntariness, i.e., committing actions according to one's own will, without forcing and with full awareness of what has been done. The legislator does not criminalize actions

that may look like collaborationism from the outside, but are actually committed under enforcement, although, of course, it is extremely difficult to distinguish cases of voluntariness from a forced situation in practice. At one time M.A. Rubashchenko expressed the position that collaboration often has a forced nature, acts as a way of self-preservation of the population, and is the result of strict control measures by the occupation regime (Rubashchenko, 2016). However, such an approach was proposed before the full-scale invasion of the Russian Federation and, accordingly, before the appearance of the article of the Criminal Code of Ukraine, which would have provided responsibility for collaborative activities directly, because previously similar actions were mostly qualified by art. 111 of the Criminal Code of Ukraine, i.e. treason. The parasitic nature of such a phenomenon as collaboration shows the immaturity of the legal culture and national identity of citizens, which makes them inclined to cooperate with the aggressor. At the same time, the hastily adopted changes to the Criminal Code of Ukraine at the beginning of March 2022 still leave a lot of questions regarding the correct qualification of actions as collaborationism.

Therefore, exposing the most obvious and indisputable attributes of a collaborator, analyzing the types and possible ways of committing collaborative activities, revealing the essence of the collaborator's personality, establishing the determinants of the spread and correlation between the causes and conditions of the spread of collaborative activities, and determining the mechanisms for preventing and countering collaborative activities is an obvious urgent necessity in such a difficult period of the Ukrainian state.

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LEGAL BASIS OF INNOVATION POLICY IN UKRAINE AND EUROPEAN UNION COUNTRIES

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In market economy countries, innovation is one of the main tools for strengthening and growing businesses. For Ukraine, the formation of innovative policies and economies is an extremely important and relevant task today. In order to be able to compete on the international arena, permanent development of new products and services is necessary. The modern Ukrainian scientific community realizes the need for detailed elaboration of a plan for establishing domestic innovation potential on progressive rails of development. The level of development of the market economy in the European Union (EU) and Ukraine is different. Therefore, the EU is more actively working on the implementation and development of legal regulation of innovation policy in member states of the organization.

The Constitution of Ukraine in Article 54 "guarantees citizens the freedom of scientific and technical, as well as other forms of creativity, protection of intellectual property, their copyright. The state promotes the development of science, establishing

scientific relations of Ukraine with the world community" (Verkhovna Rada of Ukraine, 1996).

The state innovation policy of Ukraine is a component of the socio-economic state policy aimed at the development and stimulation of innovative activity, which is understood as the creation of new or improved products, new or improved technological processes, implemented in the economic turnover using scientific research, developments, research and design works, or other scientific and technical achievements.

In 2019, the Cabinet of Ministers of Ukraine adopted the Strategy for the development of the innovation activity sector until 2030 (hereinafter - the Strategy), the main goal of which is to build a national innovation ecosystem to ensure the rapid and high-quality transformation of creative ideas into innovative products and services [Cabinet of Ministers of Ukraine, 2019]. It is expected that the implementation of the strategy will result in, among other things, "an increase in the number of individuals and business entities engaged in invention, applied research and scientific and technical developments, primarily outside the public sector; an increase in the number of business entities providing services for the commercialization of technological solutions; an increase in revenue from the sale and use (primarily exports) of intellectual property objects and science-intensive products; an increase in the share of innovative enterprises, in particular small ones". Despite Ukraine's course towards an innovation-based economy, it should be noted that at this stage, the economy is not innovative but innovation-oriented. That is, the focus on innovation "has been chosen as its main course, the achievement of which will be possible only through the renewal of modern socio-political and economic-legal foundations, the creation of new institutions, and the implementation of transformational processes in the economy, the formation of a qualitatively new complex of industries, the main resource of which will be knowledge and information" (Dziuba O.M., Shevchenko O.Ye, 2021).

The main criterion for the formation of innovation policy is the priority of innovation activities aimed at ensuring a high level of competitiveness in the production of domestic products, stable economic growth of the country, ensuring a decent standard

of living for society, as well as in the field of defense, technology development, preservation of a favorable environmental situation, and the surrounding of Ukraine.

Today, EU member states have taken an accelerated course towards the development of an innovative economy. The EU, as a complex and integrated block, is focused on implementing and realizing innovative policies at local, regional, and supranational levels. Within the EU, each country retains the freedom to choose means and forms of implementing their own innovation law in coordination with EU law. In many cases, directives only outline certain standards, leaving a significant portion of legal regulation issues to the discretion of the states. At the same time, the EU and member countries make significant efforts at the institutional level to create conditions aimed at strengthening supranational and national innovation legislation with flexible use of enhanced cooperation, differentiation, and subsidiarity for maximum efficiency of resources spent on implementing innovative programs and supporting innovative structures, including technology parks and techno-cities.

"The New European Innovation Agenda" is a plan to increase the competitiveness of the European Union, reduce its import dependence on raw materials and key technologies by 2030, and ensure the EU's leading role in deep-tech innovation. According to the EU's 2021-2027 financial plan adopted in 2020, "approximately €88 billion, or more than half of the €143 billion allocated for innovation, the single market, and digitization, will be spent specifically on research and development" (Zayats O.I., Yarema T.V., 2022). By 2030, the EU plans to reach a trajectory of sustainable innovation development and fully ensure its food, energy, and raw material security. "Deep" technologies, support for talent in the scientific and technical field, and strengthening regional cooperation in the field of innovation are expected to contribute to achieving the stated goals.

The EU is creating legal and organizational principles for a joint science and technology policy, starting almost from scratch, since there has been no comprehensive European science and technology policy for a long time. However, the objective process of innovation policy in the EU has its legal basis, linked to the convergence of national legal systems. An important component of regulating innovation activity in the EU has

been the creation of corresponding legislation by member states. One of the most important priorities of EU innovation policy in recent years has been the creation of the European Research Area. Within the framework of the European Research Area, the EU Council has identified the main goals to be achieved by 2030.

Thus, the development of the modern economy is impossible without the use of innovations, which contribute to the creation of advanced competitive products with high scientific value and profitability. The state plays an important role in the development and regulation of the innovation sector. Normative-legal regulation of innovation activity occupies a key place in the system of ensuring the development of modern national socio-economic relations.

The transition to an innovative path of development by the European Union involves an increase in funding for the scientific and technological sphere, the formation of a unified scientific space, and active activity at the regional level. An analysis of the legal aspects of the innovation sector in Ukraine has demonstrated that the existing legislative base does not provide for effective development of domestic innovation, since there is no clear course of state innovation policy, and the norms are contradictory and unsystematic.

The need to systematize the existing legislative base is obvious, as without it, the transition of the economy to a new efficient level of market development and prosperity is impossible. The differences in the innovation policies of the EU and Ukraine are primarily based on the difference in levels of development of the market economic mechanism. In the EU, a more effective operation of innovative scientific and technical institutions and organizations has been established today.

To ensure the Ukrainian innovation system reaches a high level of competitiveness, it is necessary to shift the center of innovation implementation to the regional level, give regions the right to develop a complex of privileges for innovation enterprises, increase investment flows, develop a fundamental, general legislative base, and attract scientific personnel.

The new innovation agenda of Europe sets a somewhat different projection of the EU's innovation policy than before. The main feature in all its sections is the idea of

massive support for deep-tech innovations related to technology startup and SME projects. On the one hand, the continuity of such support tools is maintained, on the other hand, the scale of programs for attracting talents is increasing. To this end, favorable standardized conditions are created for interaction between different actors living in countries that differ in their level of innovation development and regions of the EU. The implementation of regional programs and projects is yielding to the supranational principle of innovation policy. The latter should contribute to the EU's increased independence from external resources (material-technical, personnel, and others). Hence, there is a broad pool of initiatives to ensure Europe's technological and energy independence. The approaches outlined in the EU Agenda resonate with the challenges of scientific and technological development that are relevant for Ukraine, including the need to ensure technological sovereignty, support high-tech companies, and attract and retain talent.

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CONSTITUTIONAL LEGAL STATUS OF NATIONAL MINORITIES (COMMUNITIES) IN UKRAINE

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The events in different regions of the world demonstrate that violations of the rights of national minorities and disrespect for them can lead to tragic consequences. After World War I, a system of protection for national minorities was created under the auspices of the League of Nations. It is a set of international acts which concerned the situation of minorities living in newly created or defeated states but did not have a universal character. There were three provisions common to these acts: a) minorities were considered as citizens of the state; b) legal equality of minorities with other citizens of the state was guaranteed; c) the preservation and protection of the collective characteristics and rights of minorities in the states of their residence and civil affiliation were guaranteed.

In recent years, significant positive changes have taken place in the formation of the legal status of the rights of national minorities in Ukraine. The existence of national minorities in Ukraine is recognized in the Basic Law of Ukraine, and there are provisions aimed at ensuring the rights of national minorities. Public organizations of national minorities have been established and registered at various levels: all-Ukrainian, regional, and local. International agreements aimed at ensuring the rights of national minorities in Ukraine have been ratified.

Article 11 of the Constitution of Ukraine emphasizes that "the state promotes the development of the ethnic, cultural, linguistic, and religious identity of all indigenous peoples and national minorities of Ukraine" (Hbur Z. V., 2018). Thus, the norms of the Constitution of Ukraine distinguish between the concepts of "indigenous peoples" and "national minority."

The legal basis of the institution of national minorities is enshrined in the Constitution of Ukraine. The Basic Law of Ukraine proclaimed our state as a guarantor of the enforcement of the rights of all nations living on its territory. The principles which provide guarantees of the rights of national minorities are set out in Articles 23 and 24 of the Constitution of Ukraine, according to which "a person has the right to free development of the personality, to be equal before the law, and to non-discrimination of representatives of national minorities." Article 35 of the Constitution of Ukraine guarantees freedom of conscience and religion, which is also important for the enforcement of the rights of national minorities. (Hbur Z. V., 2018).

In accordance with Article 2 of the Declaration of the Rights of Nationalities of Ukraine, "the right of national minorities to traditional settlement and territorial-administrative units is preserved". According to Article 3 of the Declaration, "free use of the languages of national minorities in all spheres of life" is guaranteed. The protection of monuments of the history and culture of nations is enshrined in Article 5 of the Declaration, permission for cultural ties of national minorities with their historical homeland.

In accordance with the Law of Ukraine "On National Minorities in Ukraine," "national minorities include groups of citizens of Ukraine who are not Ukrainians by nationality, have a sense of national self-awareness and solidarity with each other" [8]. According to O. Bykova, "national minorities of Ukraine are citizens of Ukraine who reside on the territory of Ukraine and who are not ethnic Ukrainians and are in the minority, they have their own language, culture and traditions which are different from ethnic Ukrainians, and express national self-awareness. They are an element of the social order, and, therefore, of all other basic systems: political, economic, social, cultural and others" (Bykov O., 2001).

According to Y. Kovbasiuk, "a national minority is a group of citizens of a given country who are smaller in number, can be distinguished on the bases of their ethnic characteristics from the main population, deeply integrated into its social life, have a long tradition of living on its territory, and seek to voluntarily preserve and develop their ethnic, cultural, linguistic, and religious identity" (Hlotov B., 2017).

N. Shypka correctly notes that a national minority has a clearly defined status in Ukraine. The main characteristic of this group is the ability to self-reproduce. "Self-reproduction is manifested in the transmission of ethnic self-awareness, self-identification, preservation of the group's quantitative composition for a long time, and the presence of ethnic institutions that serve as intermediaries between the minority and society as a whole (national-cultural societies, mass media, and the education system). Based on this, the following defining characteristics of national minorities are distinguished: common stable ethnic features, being in a specific sovereign state with their own historical homeland, interaction with other ethnic groups of the country based on the principles of "us-them" coexistence, possessing a clearly defined status in relation to the majority of the population, and having their own function in the structure of a multiethnic society".

In most developed countries, the legal status of national minorities extends to ethnic minorities, and in some countries, to indigenous peoples.

We believe that effective protection of minorities' rights requires that they should be in the same position as the majority of the population, both legally and factually, but such equality can only be achieved through additional protective measures. Material guarantees of minorities' rights first of all include organizational measures in terms of language use and education.

It is worth noting that the definition of "national minority" remains an open question. The country itself determines what it means by the term in each convention or agreement when ratifying it. For example, during the ratification of the Framework Convention for the Protection of National Minorities on May 26, 2005, the Latvian Seimas adopted a decision that within the framework of the convention, this means "citizens of Latvia whose language, culture or religion differ from the concept of

Latvians, several generations of whom have traditionally lived in Latvia, consider themselves belonging to the Latvian state and society, want to preserve and develop their culture, religion or language".

The legal principles for determining the constitutional legal status of national minorities are based on internationally accepted standards. For example, the Helsinki Final Act (1975) establishes the principle of respect for national minorities in European countries, including Ukraine. At the Vienna Meeting (1989), emphasis was placed on supporting the preservation of the identity of national minorities (Article 19), equal rights of Ukrainian citizens (Article 31), exchange of information in their native language (Article 45), right to develop cultural heritage (Article 59), and the right to education within their own culture (Article 69). The Copenhagen Meeting (1990) provided a number of "rights and obligations of representatives of national minorities, which contribute to the improvement of liberal principles, including the possibility of creating cultural and religious institutions, free worship and links with other countries, creating organizations, promoting ethnic and religious identity".

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CROSS-BORDER CIVIL PROCEDURE IN THE CONDITIONS OF EUROPEAN INTEGRATION: THEORY AND PRACTICE

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The cross-border civil procedure under the conditions of European integration is one of the topical issues that attracts the attention of scientists and lawyers. European integration dictates the need to develop new approaches to the legal regulation of cross-border disputes, because cross-border trade and international contracts require a new level of understanding of the law and perfection of legal procedures. However, the practical implementation of a cross-border civil procedure can be difficult due to different legal systems, cultural and language barriers, and different approaches to dispute resolution.

Many scholars are engaged in the study of cross-border civil proceedings and the contribution of the European Union to the development of this issue. For example, in his article "The Europeanisation of Private International Law and the Proposed European Code", Guy F. Metzenberger analyses the development of private international law and proposes the creation of a European Code that will promote the unity of legislation between countries and promote cross-border civil proceedings (Metzenberger, 2020).

Another scientist, the Supreme Judge of the European Court of Human Rights A. Malinkovich in the article "Transnational Civil Procedure: Toward a European Model" analysed the state of cross-border civil procedure in Europe and proposed a number of measures aimed at creating a single European legal space (Malinkovich, 2013).

Cross-border civil proceedings are complex issues that require consideration of many factors. The legal systems of the countries involved in the dispute may differ significantly from each other, which may lead to different approaches to resolving disputes and conflicts. In addition, cultural and language barriers can complicate the process of communication and dispute resolution.

In connection with European integration and an increase in the number of cross-border disputes, there is a need to create a single European legal space. Also, it is important to develop new approaches to legal regulation of cross-border disputes and understanding of law. According to Guy F. Metzenberger, the creation of the European Code is necessary to promote the unity of legislation between countries and will facilitate cross-border civil proceedings. At the same time, A. Malinkovich proposed a number of measures aimed at creating a single European legal space, including cooperation between the countries participating in the dispute and the introduction of uniform dispute resolution procedures.

Cross-border civil litigation is a complex issue that requires consideration of many factors, such as different legal systems and cultural and language barriers (Herman, 2019). The growing number of cross-border disputes and the increase in European integration challenge the legal system to create a single European legal space and develop new approaches to the legal regulation of cross-border disputes.

According to scholars and lawyers, the creation of the European Code is a necessary step to promote the unity of legislation between countries and facilitate cross-border civil proceedings (Karpenko, 2018). In addition, the development of cooperation between the countries involved in the dispute and the implementation of uniform dispute resolution procedures are important.

In practical terms, the resolution of cross-border disputes can be complicated due to different legal systems, cultural and language barriers. However, relevant

international agreements and mechanisms, such as the Hague Convention on Civil Procedure and the Brussels Convention on Jurisdiction and the Recognition of Judgments, can help address these issues.

In general, the development of cross-border civil proceedings in the conditions of European integration requires constant improvement and the development of new approaches to legal regulation. Such efforts can help to ensure effective resolution of cross-border disputes and support the unity of legislation between countries.

The cross-border civil procedure in the conditions of European integration is a significant issue that attracts the attention of scientists and lawyers (Malinovska, Vershinina, 2018). The development of cross-border civil proceedings requires the development of new approaches to legal regulation and the unity of legislation between countries. To ensure the successful practical implementation of cross-border civil proceedings, it is necessary to develop a single European legal space and promote cooperation between countries in resolving disputes.

Therefore, the creation of the European Code can become one of the steps in the direction of the unity of legislation between countries. In addition, it is necessary to continue research in the field of cross-border civil procedure in order to develop more effective dispute resolution methods and to improve the process of legal regulation in this area.

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LEGAL REGULATION OF FOOD SAFETY IN DOMESTIC (NATIONAL) LAW FROM ANCIENT HISTORY TILL THE MIDDLE AGES

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The issue of food safety has been relevant for humanity from the earliest stages of the development of human society. For the very first time, humans used their intuition to avoid harmful products. These rules have developed from simple biological instincts to written rules.

The formation of international standards on the matter of food safety began with legal regulation in domestic (national) laws. One of the first documentary-recorded legal regulations on the matter of food safety regulation is the laws of ancient Israel, which contained general rules of products that should be avoided, preparing food and ground rules on food hygiene while consumption. Thus, the third book of Leviticus dated around 2000 BC, stated that Moses introduced laws in purpose to protect his people from diseases caused by food. It should be noted that those rules contained imperative regulations on hygiene after animal sacrifices. Scholars claim that analogical legal acts were also in the legislation of some ancient countries such as China, Ancient Rome and Greece. Moreover, in Ancient Egypt, it was common to mark stored food (Mossel et al., 1995). Famous ancient Indian polymath, teacher, author, philosopher, economist, jurist, and royal advisor Kautilya (also known as Vishnugupta) wrote an important for various sciences book named “Arthashastra”, which also mentioned the problem of food safety and adulteration (Kautilya, 1992).

One of the most famous medical doctors of all time - Hippocrates (460 BC - 370 BC) recognized the significant connection between health and food. The doctor stated that “differences of diseases depend on nutriment” (Hippocrates, 2022). Hippocrates

also declared that it is necessary to know "the power possessed severally by all the foods and drinks of our regimen, both the power each of them possessed by nature and the power given them by the constraint of human art". (Heraclitus, 1989) He turned attention to the importance of a daily regimen, which is strongly associated with a good health condition: “So in fixing regimen pay attention to age, season, habit, land, and physique, and counteract the prevailing heat and cold. For in this way will the best health be enjoyed”. (Heraclitus, 1989) The doctor also outlined the importance of balance in the amount of consumed food and stated that too little or too many products “harms the man just as much” (Hippocrates, 2022).

The Greek philosopher Theophrastus (371 BC - 287 BC) wrote significant work on the botanical treatise on plants “Enquiry Into Plants”, where the philosopher considered plants as a source of food and medicine. Interesting that the usage of artificial preservatives and flavors in the food supply was not rare in Ancient Greece. The author noted: “Even uncompounded substances have certain odours which men endeavour to assist by artificial means even as they assist nature in producing palatable tastes” (Theophrastus, 1989). Theophrastus reported that goods of commerce, like balsam gum, were mixed with adulterants for economical purposes (Theophrastus, 1989).

Greek medical doctor and philosopher with Roman citizenship Galen (216 AD - 129 AD) concerned moderation as the ground rule for dietary habits: “And in the nature of eating and drinking, in quantity, quality and faculty, the objective again there also is moderation, so as to take neither too much nor too little, but as much as, digested and distributed and nourishing the body well, if need be will supply symmetry to the still growing parts, and leave nothing superfluous or lacking” (Galen, 2018).

The aforementioned concerns were expressed in Roman law. Illegal acts during the selling of products such as fraud gave a rise to a private right of claim and constituted the offence of stellionatus, which could be applicable to the adulteration of food: “where anyone has substituted some article for another; or has put aside goods which he was obliged to deliver, or has spoiled them, he is also liable for this offence” (Kant, 2001).

Ancient scholars and scientists have brought the importance of legal regulations of food safety and created a starting point for the development of food safety rules from

simple biological instincts. Doctors and philosophers have traced the influence of nutrition on human health.

In the early feudal period, nontheological scholarly writing lapsed into disuse for roughly a millennium. At the end of the Dark Ages, however, concern about the food supply once again emerged (Hutt, 1984).

The first food safety laws in the Middle Ages were developed when food production became more manufactured. In 1202 “the Assize of Bread”, proclaimed by King John of England became the first English law on the matter of food safety, this law referred to the ban on the use of ground peas or beans during the production of bread, which is equivalent to nowadays bans on food adulteration.

The English government made the next important step in 1266 when assizes were codified. Those regulations contained regulation of the price of bread and other staple food products. The government came to the conclusion that the price of food could be regulated only in relation to the quality of that food. Moreover, those legal rules contained a prohibition of the sale of any corrupted products, which were “not wholesome for man's body" or that were kept so long "that it loseth its natural wholesomeness” (Hutt, 1984). In 1266 the English government set ground rules on food safety, which with periodic alterations concerned widening the list of products that should be regulated like butter, cheese, spice, etc. (Britain & Pickering, 1762) were actual till 1844. In addition to the above-mentioned English, cities enacted their own rules on food adulteration. The creation of food safety rules affected not only the economy but created a civil right to claim for losses and also raise the possibility of criminal liability. The most important was that these rules were enforced. The duty of control on different food categories at different stages of its production before consumption was imposed on trade guilds. There were numerous examples of enforcement actions against the adulteration of food and violation of food safety. Moreover, in those rules, the term “unwholesomeness” was first introduced as official terminology in legislation.

Therefore, the legal regulation experience of the Middle Ages provided more specific rules on food safety, affecting not only the consumers' health but also the

economy. As said above, the legal definition of "unwholesomeness", which is commonly used nowadays, was first established in the Middle Ages. Moreover, those regulations provided working control over the implementation of food safety rules.

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ENVIRONMENTAL CRIMES IN TIME OF WAR

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2022 was a year of heavy losses for Ukraine and her environment because of the Russian invasion. Part of the territory of our country remains under occupation, while active hostilities are taking place in another part, the material and technical base of agricultural producers has been damaged or destroyed by rocket and artillery shelling.

New objects of environmental crimes in Ukraine in wartime are land resources, water bodies, flora and fauna, radiation safety, etc.

More than 80 thousand square kilometers of agricultural land have been mined, significant damage has been done to soils, forests, and water bodies, and agricultural products have been stolen and taken from the occupied territories by the occupiers.

Experts of the Ukrainian Environmental Protection Group in Kharkiv region have counted 480 shell craters on 1 square kilometer of land, and at least 90,000 tons of soil have been turned upside down by explosions. According to these experts, the shelling on just one square kilometer of the field resulted in 50 tons of iron, 1 ton of sulfur compounds, and 3 tons of copper, and these are just the substances with the highest content.

As a result of rocket and artillery, shelling, herds of farm animals (up to 30% of the livestock) were killed, livestock farms, agricultural machinery, agricultural infrastructure, including granaries, elevators, reclamation systems and facilities, crops, forests, vineyards, gardens, and soil were destroyed or damaged.

In the Kharkiv region, the troops of the Russian Federation destroyed the farm of "Kharkiv Milk Factory" LLC - the leading producer of dairy products in the Kharkiv region. Cowsheds were destroyed, and dozens of animals died.

The Russian military blocked access to the Kherson poultry farm located in Chornobaivka. It contained more than 3 million chickens. After the occupation of the city, the Russian military shut down the local power plant. This cut off the power supply to the automatic animal feeding system. The occupation of the city also made it impossible to supply feed. So, the chickens began to die, and the factory was virtually destroyed.

Several thousand dolphins have died in the Black Sea since the beginning of the full-scale Russian invasion of Ukraine from explosions, as well as the influence of sonar. Such a statement on his Facebook page was made by the ecologist and head of the research department of the Tuzlovsky Limany National Park in the Odessa region Ivan Rusev. He also posted photos of injured dolphins.

"Analysis of the available data collected by us during the three months of the war on the coast of our national park, as well as based on fresh open publications from Ukraine, Turkey, Bulgaria, Romania and based on personal messages from my foreign friends and colleagues, we assume that due to the cruelty of the Rashists in the Black Sea since the beginning of the war and until now, several thousand dolphins have already died," wrote Rusev. According to Rusev, in recent weeks, the number of victims among dolphins in the Black Sea has increased (Elena Yatsenyo, 2022).

In the Kherson region, the main environmental consequences are:

1. The destruction of the Kherson poultry farm in Chornobaivka.

2. Fires on the Kinburn Peninsula.

3. Environmental disaster in the Azov and Black Seas.

4. Chaotic water discharge at the Kakhovka water-power plant and the possibility of its explosion.

5. Oil leakage into the Dnipro River.

The Russian military took control of the Kakhovka water-power plant because it could supply water to Crimea. So, the North Crimean Canal and the Kakhovka hydroelectric power plant were under occupation.

The Russian military discharged water from the Kakhovka Reservoir, which caused major flooding in Nova Kakhovka (for example, on the waterfront and in the Stepan Faldzynsky City Park). The dam of Kakhovka Reservoir has a dam (400 meters) and hydraulic units (150 meters). If this system is blown up, a creator (550 meters) will form and water can rush down into the lower reaches of the Dnipro. First of all, the coastal areas on the left bank of the Dnipro will be affected.

More than 10,000 hectares of forests burned in the exclusion zone near the Chornobyl Nuclear Power Plant due to hostilities, and 31 fires were recorded.

This was stated by the Verkhovna Rada Commissioner for Human Rights Lyudmila Denisova. "Controlling and extinguishing fires is impossible due to the capture of the exclusion zone by Russian troops. As a result of burning, radionuclides are released into the atmosphere, which are carried by the wind over considerable distances. This threatens Ukraine and European countries with radiation," she stressed (More than 10,000 hectares of forest are burning in the Chernobyl NPP area. This is a radiation threat to Ukraine and the EU, 2022).

Due to the windy and dry weather, the intensity and area of fires will increase, which can cause large-scale fires that are difficult to control even in peacetime.

Spent nuclear fuel storage facilities and nuclear waste storage facilities located in the Chornobyl zone can be engulfed in flames.

The issues of determining the amount and compensation for damages caused during the war are addressed in the Resolution of the Cabinet of Ministers of Ukraine «On approval of the procedure for determining the damage and losses caused to Ukraine as a result of the armed aggression of the Russian Federation» of March 20, 2022, № 326 (3). It should also be noted that not all damages can be calculated today, some of them may be latent and have a long-term negative impact on the environment, and human and animal health.

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SOCIAL CRITERIA IN PUBLIC PROCUREMENT

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Social criteria in public procurement are an important tool for promoting social and environmental objectives in the European Union. In the EU, public procurement rules require public authorities to take into account social considerations when awarding contracts for goods, services, and works.

Social criteria can include a wide range of factors, such as employment conditions, social inclusion and integration, the promotion of equality and non-discrimination, and the protection of workers' rights. By ensuring that public authorities take into account social considerations when awarding contracts, these criteria can help to create a more sustainable and equitable society.

Three new instruments were enacted in 2014: Directive 2014/23/EU on concession contracts, Directive 2014/24/EU on public sector procurement, and Directive 2014/25/EU on procurement in the utilities sectors. The focus here is on Directive 2014/24/EU – not merely because this is the measure covering most contracts – but because it is more detailed and its rules might be applied by analogy outside the Directive’s scope of application (Caranta, R., 2022).

Under Art. 67(2) of Directive 2014/24/EU, the most economically advantageous tender may be selected according to the “best price-quality ratio, which shall be assessed on the basis of criteria, including qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question". Among these criteria are included “quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions” (Directive 2014/24/EU of the European

Parliament and of the Council of 26 February 2014 on Public Procurement and repealing Directive 2004/18/EC, 2014).

Recital 99 expands on the social aspects that might be included among award criteria (and contract performance conditions):

"Measures aiming at the protection of health of the staff involved in the production process, the favouring of social integration of disadvantaged persons or members of vulnerable groups amongst the persons assigned to performing the contract or training in the skills needed for the contract in question can also be the subject of award criteria or contract performance conditions provided that they relate to the works, supplies or services to be provided under the contract. For instance, such criteria or conditions might refer, amongst other things, to the employment of long-term job-seekers, the implementation of training measures for the unemployed or young persons in the course of the performance of the contract to be awarded. In technical specifications contracting authorities can provide such social requirements which directly characterise the product or service in question, such as accessibility for persons with disabilities or design for all users" (Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on Public Procurement and repealing Directive 2004/18/EC, 2014).

The above-mentioned directive establishes the principle of sustainability. The principle of sustainability is an important aspect of social criteria in public procurement in the European Union. In essence, the principle of sustainability means that public authorities must take into account the long-term environmental, social, and economic impacts of their procurement decisions (European Commission, Communication, Public procurement for a better environment, 2008).

The principle of sustainability recognizes that public procurement decisions can have significant impacts on the environment and society, both in the short and long term. For example, if a public authority chooses to award a contract to a supplier with poor labor practices, this can lead to negative social impacts for workers and their communities. Similarly, if a public authority chooses to purchase goods that are not environmentally sustainable, this can have long-term environmental consequences.

To promote the principle of sustainability in public procurement, the EU has established a number of policy initiatives and legal frameworks. These include guidelines and best practices for integrating sustainability criteria into procurement processes, as well as requirements for public authorities to consider the long-term environmental and social impacts of their procurement decisions.

Overall, the principle of sustainability is a fundamental aspect of social criteria in public procurement in the EU. By promoting sustainability in procurement decisions, public authorities can help to create a more sustainable and equitable society for all.

Along with the principle of stability, a number of other principles are defined.

The criterion of accessibility for all is an important consideration in the selection of contractors in public procurement in the European Union. It ensures that all potential suppliers have equal access to procurement opportunities, regardless of their size, location, or other characteristics (European Commission, Communication, Public procurement for a better environment, 2008).

The EU has developed policies and legal frameworks to promote accessibility in public procurement. The EU's 2014 Public Procurement Directive requires public authorities to ensure that their procurement procedures are accessible to all potential suppliers, including small and medium-sized enterprises (SMEs) and businesses located in remote or economically disadvantaged areas.

To promote accessibility, public authorities can take several measures. For example, they can simplify their procurement procedures to make them more accessible to SMEs and other smaller businesses. They can also provide information and training to potential suppliers to help them understand the procurement process and submit successful bids (Pouikli, K., 202).

Public authorities can also use social criteria to promote accessibility in public procurement. For example, they can require contractors to provide evidence of their efforts to promote accessibility in their operations, such as by providing accessible products and services or by employing people with disabilities.

In addition, public authorities can use technology to promote accessibility in procurement processes. For example, they can use e-procurement systems that are accessible to all potential suppliers, regardless of their location or size.

Overall, the criterion of accessibility for all is an important consideration in public procurement in the EU. By promoting accessibility, public authorities can help to create a more inclusive and diverse market for suppliers, while also ensuring that all potential suppliers have equal access to procurement opportunities.

The principle of transparency is a crucial social criterion in public procurement in the European Union. It aims to ensure that procurement processes are open and transparent, and that all potential suppliers have equal access to information about procurement opportunities. Transparency is important in public procurement because it helps to promote fair competition, prevent corruption, and ensure that public funds are used effectively. To ensure that the principle of transparency is effectively implemented in public procurement, public authorities must ensure that their procurement procedures are clear, well-defined, and accessible to all potential suppliers. This can involve providing information in multiple languages and using user-friendly procurement platforms that are accessible to all potential suppliers.

Competition is essential in public procurement because it helps to promote efficiency, innovation, and value for money. It also helps to prevent corruption, ensure accountability, and promote economic growth by providing opportunities for small and medium-sized enterprises (SMEs) and other businesses to participate in public procurement. Public authorities can use social criteria to promote competition in public procurement. For example, they can require suppliers to demonstrate their efforts to promote competition, such as by developing innovative products and services, or by collaborating with other businesses to develop joint bids. (European Commission, Communication, Public procurement for a better environment, 2008).

In general, today the vector of attention in public procurement is returning to provision and social criteria when choosing an executor in public procurement. Fundamental principles are established, which draw the attention of participants in

public procurement not only to the economic component, but also to the provision of social and environmental needs.

In connection with the fact that Ukraine has become a candidate for membership in the European Union, innovations in EU legislation will begin another process of adapting Ukrainian legislation to EU legislation. Thus, a number of innovations and changes in the legislation regulating public procurement await us in the near future.

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TASKS OF THE CRIMINAL JUSTICE SYSTEM AND THE DRAFT OF NEW CRIMINAL CODE OF UKRAINE

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Historically there have been different approaches to the understanding of the tasks of the criminal justice system. The classical school of criminal law, which founder is considered to be Cesare Beccaria, based its vision of the basic principles of criminal

justice on the assumption that all people are free and equal and that a crime is a result of free and rational decisions of the individual. Beccaria objected to the prevailing absolutist criminal law of the time with its torture, arbitrariness, death penalty and inquisition and put forward the idea of criminal law, limited by the state, based on proportionality and aimed at protecting personal freedoms. His classical paper "On Crimes and Punishment" (1764) was based on the ideas of rationality and was in line with the spirit of the Enlightenment that was emerging at the time (Panov, 2014).

A bit later, with an emergence of the science of statistics, which is associated with the name of Adolf Quetelet, the vision that crime does not arise from a criminal's free decision, but is caused by a number of other reasons, is born, that leads to a positivist understanding of causes of a crime. Its consequence is the attitude to a person as an atom of civil society, as an object of social physics (Mailly, 1875).

One of the dimensions of such a positivist vision is a biological approach to the study of criminal behaviour, according to which "predisposition" to crime is innate. Cesare Lombroso, a founder of the anthropological school of criminal law, uses extensive research of prisoners with measurement of their skulls, pain sensitivity etc. Many of Lombroso's postulates were refuted by his critics, and later he himself abandoned many of his ideas, but the importance of his approaches and those of his students (in particular, Enrico Ferri) was to hasten the development of the sociological school's ideas, focusing on social factors of crimes, and the development of security measures ideas (Demchenko, 1912).

The French school of criminal sociology paid much attention to the fact that crimes are socially determined and the environment is crucial. The famous quotes by Alexandre Lacassagne "Societies have the criminals they deserve" (Vervaeck, 1924) and Gabriel Tarde "Everyone is guilty except for the criminal" (Tarde, 1890) are the quintessence of the mentioned ideas.

The end of the 19th century was marked by a significant development of the ideas of the sociological school of criminal law, and one of the most important figures here is Franz von List, who was a type of a political professor whose scientific developments were developed in real criminal law policies. List insisted on the fact that punishment

should be measured not only in line with the crime, but also corresponding to the needs in correction of a criminal and his/her behaviour (special prevention). His ideas were very influential in Germany (Breneselović, 2020).

With an emergence of the Weimar Republic judicial reforms took place that strengthened social rehabilitation in prisons, increased replacement of imprisonment with fines and developed the educational concept of working with juvenile criminals. However, from 1933 onwards, Nazi Germany increased its focus on criminal biological and psychopathological approaches and developed the ideas of castration, sterilization and destruction of "born criminals".

After the Second World War the development of criminal and sociological theories related to urbanism and ecology, which were founded in the 1920s by the so-called "Chicago School", gained a new lease of life in the USA. The criminal ecology and subculture theory provide an updated vision of how the slowdown in social integration, high social mobility in cities etc. make the tasks of the criminal justice system more difficult.

Since the 1970s the development of critical criminology has become very noticeable that is associated with the understanding of crimes not as a social feature, but as a construction created by the authorities. An important figure in the understanding of the basis for this approach is Michel Foucault with his fundamental work "Surveiller et punir: Naissance de la Prison" (Foucault, 1975).

The development of Foucauldian theory led to the emergence of abolitionism in criminal law - a trend that called for decriminalization and depenalization as well as suggested the use of various other social resources to counteract crimes (Nils, 1982).

An equally influential trend which caused the modern development of the state's response to crimes is the economic trend, focusing on the transfer of the economic model of thinking to the criminal law sphere and focusing on deterrence, situational control, prevention.

With regard to the draft of new Criminal Code of Ukraine (Text of the draft new CC, 2023), in terms of conceptualizing the tasks facing the criminal justice system, it is currently difficult enough to determine what approaches its developers are guided by.

Now (as of 30.01.2023), Article 1.1.2. “Intended purpose of the Criminal Code” reads as follows:

1. This Code determines:

1) signs of corpus delicti of criminal offences - crimes and criminal delinquencies (hereinafter referred to in this Code as the delinquencies) and an exhaustive list of them;

2) types and amounts of criminal legal remedies;

3) grounds and conditions under which these remedies are or are not applied.

In turn, according to Part 2 of Article 3.1.1. of the draft “Concept and Purpose of Criminal Legal Remedy”, “the purpose of a criminal legal remedy is to protect society from criminal offences and any other unlawful acts, provided for by this Code”.

As we can see, the authors of the draft provide no certainty to the framework strategy they are constructing to build a criminal justice system which will be capable of effectively combating crimes. The framework, “securing society”, as they call, is an unspecified translation of the idea of so-called securitization, based on the vision of certain threats and calls to counter them.

However, securitization is a two-level analytical structure that, firstly, reflects the process of threats construction in the social environment itself, and, secondly, contextualizes this process (Rychnovská, 2014). That is, a dynamic view of the security structure should not only provide an understanding of threat images (some of which may be implicit, some may be contested, some may be privileged or vice versa concealed in collective discussion of the security importance), but also provide an absolutely specific context (legal, institutional) with which these threat images should be compatible. The discourse on security has evolved over time (we can see this by looking at previous interpretations of security and how the system of its meaning has transformed in the development of approaches to the understanding of the tasks of the criminal justice system), and therefore, only a new clear definition of threats, coordination of public vision and understanding of them in different contexts, construction of a clear framework strategy to counter these contextualized threats can resonate meaningfully with the public needs to combat crimes and build a proper criminal justice system.

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LEGAL STATUS OF MIGRATORY WILDLIFE SPECIES IN UKRAINIAN LEGISLATION

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Migratory species of wild animals are an object of the wildlife of Ukraine. Their legal status is regulated by both national and international legislation. The main function

of such legal regulation is to establish the regime for the protection of migratory wildlife species in Ukraine in order to guarantee safe conditions for their stay, stopping, feeding, movement, and reproduction.

Article 1 of the Law of Ukraine “On Wildlife” stipulates that this Law regulates relations in the field of protection, use and reproduction of wildlife, which is in a state of natural freedom, in semi-free conditions or in captivity, on land, in water, soil and air, permanently or temporarily inhabiting the territory of Ukraine or belonging to the natural resources of its continental shelf and exclusive (maritime) economic zone (“On Wildlife”, 2001).

Migratory species of animals are wild by their natural characteristics, can be in a state of natural freedom, or can be kept in semi-free conditions or in captivity. According to the Encyclopedia of Migratory Species of Wild Animals of Ukraine, the relevant species are represented in Ukraine by three classes of vertebrates: fish (12 species), birds (289 species), and mammals (14 species) (Poluda, 2018, p. 14). These species, respectively, are found in the aquatic, air and terrestrial environment of Ukraine permanently or temporarily.

According to Article 3 of the Law of Ukraine “On Wildlife” wildlife, including migratory species of wild animals, includes wild animals themselves as living organisms at all stages of development, their parts (horns, skin, etc.) and their products. Habitats and migration routes are also subject to protection (“On Wildlife”, 2001).

In general, the Law of Ukraine “On Wildlife” does not contain separate provisions that would regulate the legal status of migratory species of wild animals. It neither defines such species, nor sets forth the specifics of the legal regime for their protection, taking into account the transregional nature of their life. Instead, the Law emphasizes the need to protect animal migration routes as an object of the natural environment, which is derived from their vital activity.

The Law of Ukraine No. 2697-VIII dated 28.02.2019 approved the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the period up to 2030, according to which, in order to ensure the sustainable development of the natural resources potential of Ukraine, it is necessary to preserve, protect, and restore the

number of species of natural flora and fauna, including the migratory species of animals, their habitats, rare and endangered species of flora and fauna and typical natural plant communities (“On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030”, 2019).

The law states that Ukraine is located at the intersection of the migration routes of many species of fauna, with two major global wild bird migration routes passing through its territory, and some nesting sites are of international importance.

Thus, the Law singles out migratory species as special objects of the animal world for which conservation and restoration measures should be taken. It also provides for a strategy for preserving their habitats, but does not specify how exactly. It is emphasized that the territory of Ukraine is a part of animal migration routes, and animals stop here during migration to realize their own reproductive functions (“On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030”, 2019).

The latest global trends in the conservation of migratory wildlife species are also reflected in this Law. The expected results include the following:

1. reation of a legal framework to ensure the development of transport and telecommunications infrastructure, construction of renewable energy facilities, taking into account the needs of migration and free movement of animals;

2. development of intercity transport infrastructure will be carried out with maximum adaptation to the needs of migration and free movement of animals, and most transport will switch to environmentally friendly fuel sources (“On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030”, 2019).

These measures are intended to improve the conditions for animal migration by adapting the transport and energy infrastructure to the needs of migratory species. The construction of energy generating facilities should take into account the migration routes of migratory birds. When building or reconstructing road transport routes, the migration routes of terrestrial animals should be taken into account, and in order to

facilitate their movement, it is advisable to build ecoducts so that migratory terrestrial species can freely cross the areas through which roads pass.

Article 3 of the Law of Ukraine “On the Ecological Network of Ukraine” stipulates that in order to preserve migration routes (in particular, but not exclusively), an ecological network is created as a single territorial system aimed at improving conditions for the formation and restoration of the environment, increasing the natural resource potential of the territory of Ukraine (“On the Ecological Network”, 2004).

The Cabinet of Ministers of Ukraine approved the National Environmental Protection Action Plan for the period up to 2025 by its Order No. 443-r dated 21.04.2021. This Plan states the need to take measures to conserve and restore the number of species of natural flora and fauna, including migratory species of animals, their habitats, rare and endangered species of wildlife (On Approval of the National Environmental Action Plan for the period up to 2025, 2021).

Thus, the legal status of migratory species of wild animals is reflected both at the level of laws and regulations. The above-mentioned legal provisions declare the need for the state to take measures to preserve and reproduce the number of migratory species. The need to create conditions and remove obstacles for the proper functioning of migration routes is also emphasized. At the same time, Ukrainian legislation does not define “migratory species of animals” and does not have a specific legal regime for the protection of such animals, included in a separate legal act. The legal protection of migratory species is complex and therefore needs to be further researched and better expressed in administrative and civil legal relations.

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MANIFESTATIONS OF LATENCY IN THE JUSTIFICATION, RECOGNITION OF THE LAWFULNESS, AND DENIAL OF THE ARMED AGGRESSION OF THE RUSSIAN FEDERATION AGAINST UKRAINE

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In the conditions of the war in Ukraine, the question of researching the composition of the crime provided for in art. 436^2 of the Criminal Code of Ukraine, namely justification, recognition of the lawfulness, and denial of the armed aggression of the Russian Federation against Ukraine, glorification of its participants. Today, there are only a few scientific works dedicated to this type of crime due to the fact that its composition appeared in the Criminal Code of Ukraine with the beginning of a full-scale war. One of the most important aspects of this crime is the high manifestation of latency. That is why research is needed on the phenomenon and processes that affect the high level of latency of this crime, which will contribute to the possibility of further identifying determinants and ways to prevent its commission.

Such scientists as V. Golina, B. Holovkin by latency they mean undetected and for other reasons unknown to law enforcement and judicial authorities, information about which is not reflected in the official criminal and legal statistical reporting.

As V. Batyrgareieva rightly points out the range of motives for committing a crime can be varied. However, the main ones are: benefit, fulfilling the task of the enemy side,

revenge, hatred, bowing to the past and longing for Soviet Union times, delusion, misunderstood intentions of the enemy, the desire to harm the Ukrainian state and (or) its allies of Ukraine, etc.

Agreeing with the above opinion, it should also be pointed out that in most cases justification, recognition as legitimate or denial of the armed aggression of the Russian Federation against Ukraine is carried out in individual contact or even in a private circle of like-minded people. In this case, the question arises whether it is possible to qualify such actions under article 436^2 of the Criminal Code of Ukraine, if there is no sign of publicity in the person's actions. Undoubtedly, looking for an answer to this question, it is necessary to come to the conclusion that the actions provided for in article 436^2 of the Criminal Code of Ukraine, but committed in a private environment, are still subject to criminal penalties.

Such a conclusion raises an important question regarding the manifestations of latency when a person commits this crime. In view of the above, persons who have become aware that a person has committed the actions provided for in article 436^2 of the Criminal Code of Ukraine, even if it was not committed publicly, are required to report such crimes. At the same time, in practice, cases of such reports are isolated due to various individual or social reasons. In particular, a person does not want to complain about his relative or believes that law enforcement agencies will not investigate because he has no enough evidence of committing this crime, etc. Very often in private communication, people use theses from propaganda, which justify or deny armed aggression. The very existence of family or other close ties forms a rather large percentage of latency. More a large number of citizens of Ukraine in private communication witnessed the commission of the crime provided for in art. 436^2 of the Criminal Code of Ukraine, but considering that such statements do not pose a great threat, they do not consider it correct to notify the relevant competent authorities.

Thus, the reasons for the omission and leaving of these crimes undetected by law enforcement agencies can be different. In particular, it may both depend on the activities of law enforcement agencies and be beyond their opportunities.

In their activities, law enforcement agencies must conscientiously fulfill their duties even when their relatives and close relatives commit crimes. The crime provided for by art. 436^2 of the Criminal Code of Ukraine is no exception. That is, when a law enforcement officer witnessed the justification, legalization or denial of armed aggression by the Russian Federation against Ukraine, he is obliged to take measures to report the commission of a crime or to take actions himself to prevent the commission of this crime.

It is important to understand that today Ukraine is at the stage of forming an active society. Unfortunately, there are big problems with leading a conscious civil life of the country's population. In particular, this can be seen in the high level of latency of the crime provided for in article 436^2 of the Criminal Code of Ukraine. A large number of people believe that they should not detect and report the commission of a crime, as this is the duty of law enforcement agencies. That is why it is necessary to look for ways to solve this problem, raising the level of consciousness of Ukrainian citizens.

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HISTORICAL ROOTS OF THE INSTITUTE OF HONORARY CONSULS

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The Honorary Consul Institute could be considered one of the old-timers of international law, as its roots go back to Ancient Greece and continue to exist and to

develop in our times. This institution could be traced back to the Roman Empire, Ancient China, India, and the Middle East, although the concept of honorary consuls has meant different things to different civilizations, the legal status and scope of functions of consuls in antiquity and the Middle Ages, largely coincide with modern 21-century institutions.

Etymologically, the word *consul* is derived from the Latin *consulere,* meaning "to deliberate, take counsel." The consulate is an "institution that even claims its own Roman god; "Consus", the ancient god of the counsellors, who is said to bestow his protective divinity on the consulate" (Chowdhury, 2014).

The prototype of the modern honorary consul institution or the "father of the honorary consul" is considered to be the institution of proxeny (proxenos). It appeared in Ancient Greece first of all in policies where trade and international political relations were developed. This institution spread in the 5th century B.C. The state concluded a "hospitality" contract on behalf of its community with one of the citizens of another policy (proxen) (Savchuk, 2021, p. 25).

Proxenos was traditionally a male citizen who was elected from among the representatives of the nobility of the city-state (polis) to protect the rights and interests of foreign citizens living or temporarily staying in this policy. The proxy was officially issued in the form of a public legal act, which was reported to the native city of the proxy. In the future, diplomatic, religious, commercial, and other interests of this state and its citizens were protected in the proxy policy through the proxenos.

The activity of the proxenos was diverse, he (1) received embassies and individual citizens arriving in his state; (2) was a mediator in the negotiations between the two states: [his] own country and the city [he] represented; contributed to the conclusion of peace agreements, and military-political alliances; (3) was presented as a witness during the making of the will or (4) kept the money and property of foreigners transferred to him, etc. For such kind of services, the proxenos was given the rights and privileges in the policy personal integrity, security of this person and his property, honorary citizenship, etc (Sivash, 2020, p. 419). In other words, it was not just the status of the

proxenos who was benefited by the arrangement: proxeny equally benefited the honour of proxenoi and poleis (Griffiths, 2019, p. 16).

William Mack estimates that the number of those granted the role of proxeny is 1,200,000 - an astronomical figure that demonstrates the value placed on the proxenoi during the 500 years this system thrived (Mack, 2015). It is interesting that now there are more than 10,000 honorary consuls in the whole world. The institution of the honorary consul is widely used by European and Latin American countries, to a lesser extent by African and Asian countries.

As it is today, in those days, along with the institution of the honorary consul, there was also the institution of the career consular, where the consul was an official of the state on whose behalf, he performed consular functions on the territory of another state and was granted a wider range of privileges and immunities in a foreign state.

An institution similar to the consular one also existed in Ancient Rome. During the times of the Roman Empire, when Rome ruled the Mediterranean, the institution of patronage developed. The Roman patronage system is not dissimilar to the Greek system described above. One key difference is that the main function of the Roman patronage system was to administer justice to foreign merchants. This function was based on a different set of legal principles which were less formalistic than those of the main body of Roman civil law, and hence, better suited to this purpose and the inherent trade requirements (Griffiths, 2019, p. 20).

Patronage was replaced by the Institute of Praetors (Praetor peregrinus). Praetors were appointed by the supreme authority of Rome from among the senators and had the authority to resolve disputes both between foreigners and between Romans and foreigners. Through this forum of dispute resolution, foreigners' cases were tried under the rules of jus gentium, including those arising from cases concerning international trade relations (Girdvainyte, 2014). The consular function endured in various forms through the 7th century, even after the Arab conquest of much of the Roman Empire. Eventually, merchants took over the roles of honorary consuls.

Summarizing this first stage of the honorary consul's institution development we could mention that, Greek proxenos, Roman patrons and praetors performed functions

to protect the rights of foreigners and provide them with assistance. The activities of these institutes created both historical and legal prerequisites for the construction of a legal basis for the consular institute of nowadays.

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PROBLEMS OF CREATING A SYSTEM OF GUARANTEES FOR THE OBSERVANCE OF HUMAN RIGHTS DURING COVERT INVESTIGATIVE (SEARCH) ACTIONS IN CRIMINAL PROCEEDINGS

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Having embarked on the path of European integration, Ukraine has adopted many standards of criminal offences investigation and continues to implement the best practices of the Western systems of guaranteeing the rights and freedoms of participants in criminal proceedings, ensuring transparency and legality of the criminal process. The

reform of the criminal justice system of our country is gaining momentum every year, and the increase in law enforcement experience allows us to use the most effective foreign algorithms for proving the case, taking into account domestic peculiarities of the criminal process.

Covert investigative (search) actions are the most invasive method of collecting evidence in the framework of pre-trial investigation in terms of interference with private life.

Procedural law recognises as inadmissible all evidence obtained as a result of a material violation of human rights and freedoms guaranteed by the Constitution and laws of Ukraine, as well as international treaties ratified by Verkhovna Rada of Ukraine, as well as any other evidence through information obtained as a result of such violations.

Studying this topic, it seems that an analysis of the national judicial practice and doctrine on this issue requires, first of all, an acquaintance with the origins of the problem under study. And these very origins lie in the case law of the European Court of Human Rights.

Given that most covert investigative (search) actions involve the direct collection of information about private life, from the point of view of the ECtHR case law, their conduct is an interference with the right to respect for private and family life guaranteed by the Article 8 of the European Convention on Human Rights (hereinafter – ECtHR, the Convention).

However, given the development of science and technology, formation of new views on what constitutes the sphere of personal life and should be controlled exclusively by an individual, the ECtHR judgments provide for expanded interpretations of these categories. In particular, the category of “private life” covers not only physical and mental integrity of a person, but also his/her right to gender identification, name and sexual orientation, and sexual life (ECtHR judgment in the case of V. v. France of March 25, 1992, no. 232-C, para. 63), the right to personal development and to establish relationships with other people and the world (Burghartz

v. Switzerland, para. 47; Friedl v. Austria, para. 45), the right of a person to his/her own image (judgment in Scoppola v. Italy, no. 50774/99, para. 29), etc.

The concept of "correspondence" also has an extended interpretation in the ECtHR case law. In particular, not only mailing is considered to be "correspondence", but also telephone conversations (judgment in the case of Klasse and Others v. Germany of September 06, 1978, judgment in the case of Malone v. the United Kingdom of August 02, 1984), conversations transmitted by means of mobile communication (case of Weber and Saravia v. Germany, judgment of June 29, 2006), and radio communication channels (Bykov v. Russia, judgment of March 10, 2009).

The analysis of the ECtHR case law, which is the source of interpretation of the Convention, shows that the right to respect for private life and correspondence, despite the existing remedies, is not absolute. At the same time, any interference by public authorities must be lawful and justified. According to the ECtHR case law, violations of Article 8 of the ECtHR can take two forms – breach of a positive obligation (failure to ensure the conditions for the exercise of the right) and a negative form (unjustified interference). Interference is not justified when one of the three criteria is violated: the legality of restriction, its legitimate aim and the necessity in democratic society (Yemchuk, 2015).

As it was already noted, traditional written mailing is also considered correspondence within the meaning of Article 8 of the Convention. One of the first judgments delivered following an application from Ukrainian citizens regarding violation of the right to respect for correspondence under Article 8 of the Convention was in the case of Volokhy v. Ukraine (no. 23543/02 of November 02, 2006). Given the changes in current criminal procedure legislation, this decision is no longer relevant in terms of taking its content into account when making court decisions. However, it should be noted that it has created a powerful benchmark for the development of national legislation in the relevant area (Bilichak, 2020).

In the Court's case-law, two groups of cases on covert surveillance of individuals can be distinguished:

1. Cases in which the Court assessed the legislative regulation of such measures;

2. Cases in which the Court assessed the application of national legislation to the circumstances of the applicant's particular case.

When deciding on the compliance of national legislation with the guarantees of the Convention, the ECtHR must determine whether the procedures for controlling the authorisation and conduct of such measures are sufficient to ensure that "interference" is limited to that which is "necessary in a democratic society" (judgment in case "Roman Zakharov v. Russia", para. 232).

Since, due to the covert nature of such actions, a person cannot initiate any appeal against them until they are completed, it is important that the established procedures themselves provide adequate and appropriate guarantees for the protection of his/her rights. At this stage, according to the Court, it is advisable to entrust such control to a judge, since judicial control provides better guarantees of independence, impartiality and observance of due process (judgment in case "Roman Zakharov v. Russia", para. 233).

The investigating judge exercising the powers within the given competence, including in the application of measures to secure criminal proceedings, granting permission to conduct certain investigative (search), and covert investigative (search) actions, uses a three-part test to assess the justification of interference with the human rights, which has been developed by the case-law of the ECtHR, in particular, in the judgments "Panteleenko v. Ukraine" of June 29, 2006 and "Ratushna v. Ukraine" of December 02, 2010. The test includes such constituents as: 1) the interference was carried out "in accordance with the law"; 2) it meets a legal, legitimate aim; 3) it is "necessary in a democratic society" (Kaplina, Tumanyants, 2021).

Since during the conduct of covert investigative (search) actions a significant interference with human rights is carried out, it is important to create a system of criminal procedural guarantees aimed at ensuring the observance of the rights and legitimate interests of persons in respect of whom these actions are carried out. Moreover, this system of guarantees should be based on the practice of the ECtHR and the best national judicial practice.

The system of guarantees related to covert investigative (search) actions can be divided into two groups. 1. Guarantees relating to the conduct of any covert investigative (search) actions: 1) those that ensure the legality and validity of covert investigative (search) actions; 2) those that ensure preservation and protection of information obtained during covert investigative (search) actions; 3) those that ensure the right of persons to be familiarised with the fact and results of covert investigative (search) actions. 2. Guarantees caused by the specifics of certain covert investigative (search) actions (Tumanyants, Krytska, 2018).

When searching for effective means of counteracting organised and corrupt crime, studying the positive international experience of detecting and exposing disguised dangerous crimes, which should contribute to the legislative consolidation of new means of obtaining information and forming evidence in criminal proceedings, it is also important to adhere to the principle of proportionality.

Adherence to the principle of proportionality when conducting covert investigative (search) actions will ensure a balance of private and public interests and achieve an optimal balance between the objectives of interference with the rights of a person and the means of achieving them. The end must justify the means, but in no case vice versa.

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CODE OF ETHICS OF JUDICIARY PROFESSIONALS

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Judicial reform, which is being implemented step by step in our state, is designed to build an independent, open, fair, and efficient court that will effectively ensure the constitutional rule of law principle and be trusted and respected by society.

An independent, fair and impartialjudiciary is indispensable to our system of justice. Judges cannot ruletheir court unless they are fully committed to the task assigned to them. It is expected from them that they would not adopt the mentality of a menial clerk who works for certain fixed hours to earn his/her living. The office of the judge is not a service or employment in the ordinary sense of the term. It is an office of public service. A judge remains a judge 24 hours a day, 7 days a week and 365 days a year. They think about the cases on board even while theyare asleep.

Judicial ethics is part of the larger legal category of legal ethics. Judicial ethics consists of the standards and norms that apply to judges and cover such matters as how to maintain independence, impartiality, and avoid impropriety.

The rules of ethical conduct for judges are defined in international acts and enshrined in the norms of the national legislation: the Law of Ukraine “On the Judiciary and Status of Judges” and the Code of Judicial Ethics.The National School of Judges of Ukraine has developed a special ethical training course for judges. According to its author, this course must necessarily include the study of different approaches to the definition of the concept of judicial ethics and their basic principles. Thus, under the judicial ethics, the author understands a certain system of basic principles of the regulation of the conduct of judges in court andtheir extra-judicial behaviour.They are developedconsidering the peculiarities of the judge’s professional activities to support judicial standards.The following principles are distinguished: 1) service to society, 2) decent behaviour, 3) integrity, 4) competence, 5) political neutrality, 6) transparency, and 7) integrity.

Judicial ethics is a professional applied ethics of the members of the judiciary which is the third branch of government and has a crucial importance in the administration of justice.It is gaining more and more attention in comparative and interdisciplinary academic research. The ethical aspects of judges’ conduct have to be discussed for various reasons. The methods used in the settlement of disputes should always inspire confidence. The powers entrusted to judges are strictly linked to the values of justice, truth and freedom. The standards of conduct applied to judges and other members of the judiciary are connected with these values and are a precondition for confidence in the administration of justice.

Dilemmas related to judicial ethics are determined by the fact that it is considered to be governmental ethics and the ethics of the third state power. Ethical judicial dilemmas arise very often because of the concurrence of special power and service, both are an integral part of the judiciary. The complexity of judicial ethics is determined by the judiciary’s specific constitutional status, its immunity and need of protection, as well as by the wide scope of values, its sensitivity and diversity. Society’s expectations for judges and other judicial professionals have caused the need to reflect on the issue of judicial ethics.

The norms of judicial ethics can be found both in national legal systems and in the documents of different international organizations. It is established by soft law as well as by hard law. Judicial ethics is the highest constitutional ethics because the main principles of judicial conduct are legal principles established in the constitutions of different European countries. In the countries with the status of a law-governed state, it is especially significant because the essential values of judicial ethics are prerequisites of this constitutional principle.

In many European countries, expectations for professional and sensitive justice in society have always been an issue of great importance. But it became even more important in times of social and economic turmoil which increased the number of social conflicts. Therefore, the court professionals who perform judicial and quasi-judicial functions are faced with the mission not only to resolve a huge number of disputes but also to resolve very sensitive public issues that require not only legal professionalism but also a good knowledge of domestic and international judicial practice on the issue of rights person as well as work practice in various spheres regulated by legislation. Adhering to the proper conduct of judicial ethics helps judicial staff to overcome these challengessuccessfully.

The starting point of getting deep into any social field requires revealing its nature. This is very important for judicial ethicsbecause misunderstanding its nature can lead to serious confusion and antagonistic results, or even worse, to the violation of judicial independence.

In general, judicial ethics can be recognized as ensuring the independence, impartiality and integrity of courts, judges and professionals related to the judicial system. This has always been recognized as a core value in a democratic society and expected of the judicial system. Justice is a fundamental prerequisite for the development of any sphere of society: public administration, politics, economy, science, social security, etc. Thus, the rule of procedural justice is no less important than material justice, since justice can be perceived as a form of human consciousness. The European Court of Human Rights emphasized that justice must not only be administered but also “seen” (*Delcourt v. Belgium*, 1970). It should be noted that the persuasive and

trustworthy practice of judges and other legal professionals is of great importance for the ultimate effectiveness of the administration of justice.

Codes of conduct are the main tool for transforming core values into norms of behaviour. They are not only desirable and show the best way to solve ethical dilemmas but they also have to be effectively implemented in practice. In order to ensure the independence of the judiciary, the implementation must take place, first of all, from within the judicial system itself.

Judges should maintain the dignity of judicial office at alltimes and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They have to at all times strive to conduct themselves in a way that ensures as much public confidence as possible in their independence, impartiality, integrity and competence. The Code of Judicial Conduct establishes standards for the ethical conduct of judges in matters affecting the performance of their judicial duties and the fair and efficient operation of the courts or other tribunals on which they serve. Although it is not intended as an exhaustive guide for the conduct of judges who must be guided in their professional and personal lives by general ethical standards as well as by the law, which includes this Code, it is intended to assist judges in maintaining the highest standards of professional and personal conduct, as it affects their judicial work.

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THEORETICAL DEFINITION OF ONLINE GROOMING

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Although definition of the word “grooming” normally refers to ordinary, everyday actions, it becomes more sinister when seen from the standpoint of criminal law. It is setting the stage for any sexual wrongdoing involving a youngster (Limor, 2002).

The doctrine is still divided on what constitutes child grooming. While some authors limit the circle of victims of grooming to children, others include parents and other people around children. For example, Tom Sorell (2017) writes that grooming occurs when an adult prepares someone – usually a child – for sexual contact. In contrast, Craven, Brown, Gilchrist suggest defining grooming as an act when the child, significant adults, and the environment are prepared by a person to abuse the child (Craven, Brown, & Gilchrist, 2006, as cited in Retornaz & Eylem, 2022). In addition, Steven Collings (2020) notes that grooming exists when an individual employs tactics of psychological manipulation – directed at a child, the child’s caretakers and/or the broader social environment – in order to potentiate the dual goals of sexually exploiting a child and of doing so with immunity.

The opinion of Anoushka Thakkar (2022), who singles out self-grooming as a type of grooming, is also interesting. So, by self-grooming, she means the process by which the abusers 'groom themselves' and justify or deny their offending behaviors.

In addition, some authors outline the circle of those who can commit such an act exclusively as sexual offenders or paedophiles. For instance, Patrick Parkinson (2014) notes that grooming is the techniques which sex offenders use to entice children into sexual activity. Similarly, Marsh considers cyber grooming to be behaviour by a suspected paedophile that would give a reasonable person reason to be concerned that any encounter with a child that results from such behaviour would be for unlawful purposes (Chawki, 2009).

Also while some writers define grooming as the process of befriending a child with the intention of sexual abuse, others view it as an act of "predation" to facilitate sexual abuse. One writer describes "grooming" as the first step towards the sexual abuse of a child, with the objective of gaining his/her trust through friendly and supportive acts. According to this view, grooming is a method to separate children from the people who can protect them against sexual abuse (Retornaz & Eylem, 2022).

What does online grooming mean? According to the ECPAT International and Religions for Peace report titled "Protecting Children from Online Sexual Exploitation," online grooming for sexual purposes is establishing an online communication with a child in order to form a relationship to enable online or offline sexual contact. Based on the above-mentioned definitions, online grooming or cyber grooming can be defined as the process of convincing a child to have sexual activities and involving a child in sexual activities by means of internet and information technologies (Retornaz & Eylem, 2022).

In the Child Safety Online Report, grooming is widely described as "the process by which an individual befriends a young person for online sexual contact, sometimes with the involvement of webcams that can allow sharing of the exploitation among networks of child abusers, and sometimes extending to a physical meeting to commit sexual abuse" (Kazić-Çakara, 2021).

Thus, the main difference between grooming and online grooming is that in the latter type of crime, the Internet is either a way of committing the crime or a place where such actions take place.

In relation to the above, it seems possible to make the following judgments. First, when deriving a theoretical definition of grooming, it seems appropriate to limit the circle of victims of this act exclusively to children. This, as will be discussed below, follows both from the provisions of international documents and from the idea of who is the ultimate recipient of harm. Parents and the child's environment may indeed be influenced in the process of establishing relationships with the child. However, in this case, they will not be victims, but rather an obstacle on the way to the child.

Secondly, it also does not seem correct to limit the circle of perpetrators of this act to pedophiles or sexual offenders. Such a formulation of the issue excludes persons who do not have any sexual interest in the victim from the scope of groomers. In particular, it refers to those criminals who actually act as child finders for other sexually interested persons. In this regard, Marie's thesis seems to be correct, as she writes that sex offenders against children stopped coming from the group of individuals afflicted with the paraphilia a long time ago. Nowadays, an even greater group are offenders without any sexual orientation disorder (Skórzewska-Amberg, 2021).

Thirdly, grooming, in my opinion, should be seen as a two-stage process, the first stage of which is the establishment of a trusting relationship with the child, and the second is the gradual inducement of the child to engage in any sexual activity. It is important to highlight that grooming can start on the Internet and continue in physical space, when the offender offers the victim to meet him/her, for example, at his/her home and engage in sexual activity there.

Therefore, online grooming can be understood as a process where an adult establishes a trusting relationship with a child through information and communication technologies in order to commit any sexual activity against them.

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THE USE OF ANGLICISMS IN YOUTH SLANG

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Every day anglicisms more and more actively and continuously penetrate into all spheres of social life. This greatly contributes to social development, replenishment of vocabulary and, in a way, affects the consciousness not only of the young generation, but also each of us, regardless of our age. It is caused by the thing that popular "Western culture" over time affects the lives of Ukrainians as well.

Foreign language terminology in general has its own curious points, if we touch on its linguistic phenomenon, thus playing an important role even in the Ukrainian language, no matter how strange it may sound to connoisseurs of the exclusively state language without admixtures of foreign borrowings. But for a well-known reason, it is the English-Ukrainian language interaction that constantly attracts attention of researchers of all possible levels and opinions about it, they direct their efforts to the study of borrowing as part of the vocabulary in the Ukrainian language. In addition, with the development of technology and the interest of young people in learning English (or any other language), it is becoming easier to find a pen pal, practice your English and learn how English-speaking people really communicate, whose dialogues were not recorded in our books under study time at school. But in order to understand anglicisms as part of the language, one must turn to their very beginning – to borrowings.

It can be said that borrowings are elements of another language (idiom, phrase, word) that have penetrated from one language into a completely different one as a result of "language contacts" (Tkachenko, 2010). Anglicism is precisely one of the types of borrowings. Anglicism is a word, its separate meaning, expression, etc. (Slovnyk ukrainskoi movy), which is borrowed from the English language and formed according to its model.

The influence of anglicisms on the Ukrainian language can be considered from two different angles:

- on the one hand, our language is constantly enriched, replenished with new terms and concepts;

- and others believe that anglicisms and foreign borrowings only litter our language, displacing proper Ukrainian words.

In conclusion, we believe that in fact anglicisms in youth slang occupy a really important place, but we must always remember and keep in mind that the excessive use of anglicisms will lead to the impoverishment of the native language. All of us must respect the traditions of our language, both literary and spoken, and use certain expressions in the appropriate social and cultural environment, where they will be appropriate. Of course, one can assume that such slang expressions are very harmful to our language, but sometimes their use is not just important, but even necessary from the point of view of the global influence of English-speaking culture and the development of technology at the same time.

In this case, it will be appropriate to follow the ideas of Ukrainian scientists and say that nowadays English words and phrases are increasingly entering our lexicon and replenishing our vocabulary, our morphology, syntax and pronunciation are heavily influenced by the English language. Moreover, such a need to create and introduce anglicisms in the Ukrainian language is greatly exaggerated, and their formation is not even created by the need for communication, as it may seem at first glance. The works of literature studied by scientists testify to the existence of a habit of showing off among not very educated people, showing off is not hindered even by the fact that the words are not very clear to them, but their environment uses these words. Today not only poorly educated people resort to a kind of “prestigious” words and expressions, but also people holding high positions, politicians and other “dignitaries”. But the reason is almost always the same - the desire of a person to be on the same level with fashionable education and to stand out thanks to his or her vocabulary among “the grey mass” of other people.

It is clear that the popularization of the ways of life of the English-speaking society has some influence on the life of the Ukrainian community. As we have already mentioned, teenagers and the young generation in general quite actively use words that have been borrowed from English, whether it is to denote certain terminology in games, or to simplify the understanding of people among themselves, or simply to denote the styles of movies and sports that are popular in America and England. These lexemes themselves can be duplicated almost without complications from both British and American variants of the English language. Of course, the mere existence of these words in the world is not enough for their use on the territory of Ukraine, but TV stars, bloggers, politicians are engaged in spreading them, intentionally or not, from them we constantly hear these expressions on television, and maybe we don't even notice when new TV shows or movies have words of foreign origin in their titles.

We cannot deny the fact that thanks to some borrowed words we can replenish our vocabulary and expand our horizons, because almost every person who wants to learn something new, hearing a new word that is still unknown to him or her, will want to know its meaning and the possibilities of its use, and turn to a dictionary or, more realistically, to a translator. A large number of people oppose the use of translators, but at least knowing the correct translation and appropriate use of this word in the appropriate situation contributes to the development of a person and the acquisition of a certain status in social groups. We think that the process of the spread of anglicisms is already irreversible, so we are inclined to think about its more positive than negative impact on our culture and self-determination of citizens. We need to accept the spread of anglicisms as a phenomenon around us and calmly move with the times, considering anglicisms as our friends, but not enemies.

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HOW TO USE COMMUNICATION STYLES EFFECTIVELY

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Communication is a process by which information is exchanged between individuals through a common system of symbols, signs, or behavior. It is a two-way process that involves the following elements: a sender, a message, a medium, a channel, a receiver, a response, and feedback. It is not sufficient to have all these elements, there should be cooperation and understanding between the two parties involved.

In daily life, communication helps to build relationships by allowing us to share our experiences, and needs, and helps us connect to others. It's the essence of life, allowing us to express feelings, pass on information and share thoughts. We all need to communicate. The success of intercultural communication depends not only on knowledge of languages and national characteristics.

Linguists have proposed various definition of the language. Language is a form, not the substance, or a symbol of the sound system. Language is only a prerequisite for communication, an important role in which is played by a sense of style, general mood of communication inherent in a certain culture. A German founder of linguistics Wilhelm von Humboldt was among those philosophers who used language as a tool to study the human mind and interpret human cultural differences. Language is a product of human nature. It is "an involuntary emanation of the mind, no work of nations, but a gift fallen to them by the inner destiny. Language cannot be taught, it can only be awakened in the soul" (Humboldt, 1999, p.11).

American businessman Richard R. Gesteland in the book "Cross-Cultural Behavior in Business" described the peculiarities of business communication. Personal visits and

frequent phone calls are very important. Relationship-oriented business cultures of Asia, the Middle East, Africa, Latin America, and many Eastern European countries are characterized by it.

Knowledge of the peculiarities and even styles of communication inherent in various national communities is necessary for specialists in social communications, journalists, specialists in advertising, public relations (PR), businessmen, translators, workers in the tourism industry, etc. Having the idea that representatives of different national cultures perceive the tasks and "super-tasks" of communication in different ways, read (decode, decipher for themselves) received information differently and transmit (encode) messages during communication, it is possible to prevent many situational misunderstandings based on international differences.

Ethnostylistics (Greek: "ethnos" – "people" and "stylos" – "writing stick") is a branch of ethnology and intercultural communication that studies established national features of communicative behavior. These features are dictated not simply by the intentions of communication, but by national and, more broadly, ideological, and ethnic differences, and collectively form a communicative style.

Communicative style is an individual or collective stable form of communicative behavior of a person (linguistic and cultural community), which is revealed in the process of communication; is determined using characteristic verbal and non-verbal means, depending on the pragmatic instructions of the speakers and the national specificity of the communicative discourse. The term "style" in this case is not related to the language, but to the person himself/herself, and more broadly, to a certain human (national or ethnic) community that uses an arsenal of verbal and non-verbal communication established and understood in its environment.

The theory of communicative styles was developed by the American William Hudykunst School of Science at the end of the eighties of the twentieth century. This theory is based on the belonging of communication participants to certain cultural contexts and types of cultures. The definition of communicative style, as well as the type of cultural context, is determined by the amount and value for a certain national and cultural community of the very act of conversation, live language communication.

William B. Gudykunst singled out the following main dichotomies of communication styles:

1. direct (English direct) — indirect (English indirect); 2. expanded (English elaborate) — collapsed (English restricted); 3. personal (Eng. personal) — contextual (Eng. contextual), or socially oriented;4. instrumental (English instrumental) — affective (English affective).

Variations of these styles can exist in every culture, but mostly one of them prevails. Direct and indirect communication styles are distinguished based on how directly and openly the speaker expresses his/her intentions. Direct communication style involves the most complete formulation of thoughts and intentions directly using language. It is characteristic of such cultures as American, British, Australian, German, Israeli (Манакін, 2012, p.241).

Americans often use phrases like “without a doubt”, “without question”, “one hundred percent”, I’m sure”, which constantly support the mode of conviction, confidence in what is being said. In the speech of Ukrainians, similar linguistic means of persuasion are also not an exception, but they are not characterized by the straightforward frankness of Americans, which is often ironized by other nations. The Americans themselves admit that they are so direct and frank that they even announce to everyone present in the room when they are going to the toilet, using “Aesopian”, euphemistic constructions such as: “I will be away for a moment”; “Sorry! well, I have to leave you for a while” — or humorous phrases: “I’ll powder my nose for a moment” (women say it); “I’ll be back now” – “I'll just touch up the corner!” (“cotton wool” — men say it).

Indirect communication style is characterized by indirect expression of thought, which is formulated mainly by hints, actively using non-verbal means of communication. It is characteristic of East Asian (broad context) cultures, in which politeness and harmony of relations are highly valued. In view of this, there are noticeable differences in the use of the words “yes” and “no” in different parts of the planet. The Chinese, Japanese, and other Eastern peoples, for whom the preservation of good interpersonal relations is the main thing, hardly use the word “no” for refusal.

They can remain silent and even agree with the interlocutor, but they will not fulfill the promise. The word “no” in the sense of their cultures destroys the atmosphere of positivity. The word “yes” in different linguistic cultures, in addition to the actual idea of agreement, has dozens of semantic nuances depending on communicative situations. A typical example used in Ukraine is the “invitation to tea”:

- Will you drink tea?

- Yes, no. Thank you.

- So, thank you “yes” or thank you “no”?

- No, thank you, “no”.

This demonstrates the simultaneous superimposition of different meanings of the word “yes” is used simply as a conversational participle, which has nothing to do with the expression of agreement. The Japanese also often use the word “hai” (“yes”) during conversation, which most often serves as a signal of attentive listening, a connector such as “yes” is “of course, continue!” Yes, I’m listening to you, yeah...” However, it can also be a full “yes!” consent after the subject of the consent is clearly explained.

With the help of an indirect style, the general value of Eastern culture is maintained, which demonstrates respect for the interlocutor even at the expense of self-deprecation, which is emphasized, for example, by expressing uncertainty in the statement. The Japanese, in order not to show excessive self-confidence, often resort to the modality of uncertainty with the help of the words “probably”, “probably maybe”. Mothers usually use rhetorical questions and appropriate tone of voice to express dissatisfaction with children's behavior. The Japanese believe that verbalization spoils the value of real feelings. For them, understanding each other without any words is much more important than verbal communication. The ability to understand the thoughts and feelings of another without words is evidence of a close relationship between people.

According to experts the inexpressibility of the situation is a valuable trait, that is why Japan is called a culture without words. It is associated with their special attitude to masculinity – a high respect for real male qualities. According to the Japanese ideal, a man is a strong, tight-lipped individual who does not reveal his weaknesses, never

complains about life, especially to his own wife. A comparison of the verbal behavior of Ukrainians and other Eastern Slavs with representatives of East Asian cultures is also ambiguous.

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THE PRINCIPLE OF TRANSPARENCY IN THE ACTIVITIES OF LOCAL SELF-GOVERNMENT BODIES OF UKRAINE

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The etymology of the concept of "transparency" (as a term of foreign origin) originates from the Latin "trans" - transparent, through and "pareo" - to be obvious. The English word "transparent" is translated as transparent, clear, obvious, from the French "transparent" - clear. The category of transparency as a sign of administrative and political communication between public authorities and the population was developed in anglish-american social science, where clarity before the object of public administration was defined by the concept of "transparency", and the accessibility of the government to participation in public administration by members of society was defined by the concept "openness" (Komarova K., Kovalchuk N., 2021).

According to the principles of legal statehood, the most effective is the government that acts transparently, openly, publicly, accessible and loudly. In turn,

guided by the developments of modern jurisprudence, all the specified concepts are components of one category - transparency. At the same time, in order to clarify the essence of the transparency principle in the aspect of local self-government bodies functioning, it is necessary to clarify the essence of their activities.

Different approaches to defining the concept of transparency have been formed in scientific practice. All this leads to the fact that defining the transparency content of the public authorities` activities in Ukraine is difficult to understand. Along with the term "transparency", the terms "clarity", "openness", "publicity", "accountability", "access to public information", etc. are used (Tereshchuk, 2020).

Since 2014, the reform of public power of the government decentralization has been continuing in Ukraine. One of the conditions for successful implementation of this reform is clear accountability of local authorities to the community. Otherwise, the essence and effectiveness of decentralization will simply be lost, and instead, corruption and the shadow economy will flourish. Analysis of the openness of cities in 2021 showed that there are significant problems with the publicity of management decisions in Ukraine. The highest rating indicator barely reached 50 points out of a possible hundred. Compared to European countries, these are catastrophically weak results.

It is worth noting that a successful move in ensuring the transparency of local self-government bodies was the transition of all public procurements to an electronic open platform - "ProZorro".

The prerequisites for the development of digitization and electronic transparency in municipal authorities are: an increase in the volume of electronic appeals; fulfillment of international obligations on information and legal development, in connection with joining the International Open Data Charter; the need to improve the culture of data management in the era of information overload; strengthening of requirements for public accountability, etc.

The openness of official information increases the economic potential for the community (or the country as a whole), because the private sector of the economy, before investing in a particular community, analyzes indicators such as the availability

of information about politics, local programs, development strategies, official rules and distribution resources (Huk, 2018).

In our opinion, the main measure in increasing the openness of Ukrainian cities is to put their official websites in order. In particular, their content should contain the full amount of public information related to:

- founding documents of the representative body of local self-government;

- decisions, orders of the city council and the executive committee, the agenda in the specified terms, voting results, protocols and appeals of the city council;

– management and structural subdivisions, communal services, and departments;

– statutory documents, tasks, goals, powers of communal services, their annual financial reports, public procurement plans, tenders, etc.

City council websites should provide a wealth of information for citizens and visitors, with links to detailed information about all city departments, meetings and city-wide events; on various maps, orders and an annual survey of citizens. One of the most important data on the website is the city budget and its expenditures.

In addition, visitors to the city's web page should be able to learn about local businesses, the education system, schools, recreational activities, jobs and the latest news about the city.

Proper implementation of the transparency principle will lead our country out of a stagnant economic and political situation, will give rise to the rapid development of territorial communities and the well-being of citizens; will eradicate manifestations of corruption in all spheres of life.

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WHAT LAWS AND CUSTOMS OF WAR RUSSIA HAS BEEN VIOLATING IN UKRAINE

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Since 2014, the Ukrainian authorities have repeatedly claimed that Russia has violated various international treaties in the occupied territories of Crimea, Donetsk and Luhansk regions. After the full-scale invasion of Ukraine be russian troops, the number of such statements has rapidly increased. Ukrainian human rights organizations are keeping a watchful eye on and recording the international crimes committed by russian occupiers throughout the conflict. The Ukrainian administration, along with numerous other nations, is taking legal action against Russia and its leadership in international tribunals, courts.

Since the adoption of the First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field in 1864, all wars around the world have been subject to the regulations and customs of international humanitarian law. These constraints were established to reduce the brutality and fatality of wars, and the vast majority of these norms have now become universally accepted.

Before humankind recognized that war necessitates rules that everyone must follow, millions of lives were lost. At first glance, war may seem to have no connection to the rule of law and instead be a manifestation of complete anarchy. Nonetheless, there are instances of military operations that adhered to the laws and customs of

warfare. This is how countries maintain global order and continue to be members of the civilized world.

But however, there exist countries that fail to adhere to these laws. Russia is among those countries.

The laws of warfare were initially established in the Hague and Geneva Conventions, which are international treaties that are binding on all states without exception and are used during conflicts. While they do not explicitly prohibit warfare, they do provide a clear framework of what is permissible. Failing to comply with these conventions is tantamount to voluntarily removing oneself from the civilized world.

The Hague Conventions were the first multilateral international agreements to address the conduct of warfare, establishing approved weapons and methods. The First Convention was ratified at a conference in The Hague in 1899.

It is interesting to note that the Russian Empire was one of the initiators of limiting cruelty in war and enshrining the relevant provisions in international law.

During the First World War, the Hague Conventions were largely ineffective because they were ignored by the parties to the conflict. Just as the russians are doing now.

The events of the Second World War underscored the necessity for comprehensive safeguards for individuals, including citizens, combatants (soldiers involved in active hostilities), and prisoners of war. As a result, four Geneva Conventions were ratified in 1949 to address these concerns.

Actions that violate the Geneva Conventions constitute breaches of international humanitarian law and may, in severe cases, amount to war crimes, which fall under the jurisdiction of the International Criminal Court.

The Soviet Union ratified the Geneva Conventions in 1954. After its dissolution, Russia proclaimed itself the legal successor of the Soviet Union, thereby acknowledging itself as a signatory to international treaties signed by the USSR.

In 2019, Russia pulled out of Protocol I to the Geneva Conventions, which deals with the protection of victims of international armed conflicts, resulting in the obstruction of the Independent International Commission's efforts to establish the facts

of its crimes in Syria and later in Ukraine. However, Russia's partial withdrawal from the Geneva Conventions does not absolve it of responsibility for violating international humanitarian law and committing war crimes during the conflict in Ukraine.

Which conventions are being violated by Russia in Ukraine? The most important rule of *the Fourth Geneva Convention*, as well as of all international humanitarian law, is the protection of civilians in time of war, including during occupation.

This rule is being ignored by the russian military, deliberately shelling the civilian infrastructure of Ukrainian cities and humanitarian corridors, carrying out mass executions in the occupied territories, or forcing Ukrainian citizens to serve in the russian army. russian occupiers arbitrarily kill and torture civilians, rape women and children, shoot doctors and journalists.

Cities surrounded or captured by Russia have no water, food, medicine or electricity. The occupiers are bringing them to a humanitarian catastrophe.

The attack and seizure of the Chornobyl and Zaporizhzhia nuclear power plants is a gross violation of *the Treaty on the Non-Proliferation of Nuclear Weapons and the International Convention for the Suppression of Acts of Nuclear Terrorism* and customary international humanitarian law. In addition, the occupiers are shelling oil depots and gas pipelines in many regions of Ukraine. Such actions pose an environmental threat to all of humanity.

Another obligation under *the Third Geneva Convention* is to respect the rights of prisoners of war. The norms of this international treaty prohibit physical and psychological torture and inhumane treatment of prisoners of war.

Prisoners have the right to have food, water, and contact with their families. Women soldiers in captivity must be kept separately from men, supervised by female staff, and their special sanitary and medical needs must be met.

The russian invaders have repeatedly committed serious crimes against Ukrainian prisoners, which is a violation of the rules and customs of war. For example, released Ukrainian prisoners-women showed that their heads were shaved, and, according to the

Minister of Reintegration, the russians forced them to undress, did not allow them to sit down, there were also cases of rape.

The Hague and other specialised conventions limit the methods and means of warfare. Some types of weapons are particularly dangerous because they cause excessive physical damage.

Russia's use of cluster bombs, thermobaric "vacuum" bombs, and anti-personnel mines in Ukrainian cities is a violation of *the Hague Conventions* and customary international humanitarian law.

The use of phosphorus munitions and incendiary aerial bombs by the russian military in Ukraine violates *the Convention on Certain Conventional Weapons*.

There are suspicions of the use of chemical weapons against the defenders of Mariupol and Izium, which is a gross violation of the rules of warfare, including *the Chemical Weapons Convention.*

Attacks on historical monuments are forbidden by *the Geneva Conventions of 1949* and customary international humanitarian law. *The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict* safeguards architectural monuments, dozens of which have been destroyed by the russians. For today, UNESCO has documented 53 damaged cultural sites in Ukraine.

Despite this destruction, Ukrainians are taking action to safeguard their monuments, including reinforcing them, hiding cultural heritage in bomb shelters, and even taking cultural property out of the fire.

In conclusion, all such facts are widely publicised internationally and will certainly become aggravating circumstances in international courts for russian war criminals.

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TRANSFORMING THE STATE SOVEREIGNTY CONCEPT ON THE EXAMPLE OF DECOLONIZATION OF AFRICA

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The concept of state sovereignty in its major sense is primarily understood in the context of the absence of any kind of outside influence and as the actual possibility of independent existence. Such a list of features simultaneously indicates another general social phenomenon which is independence. To establish a fair balance of these categories, it is necessary to refer to the sovereignty of the state's origin.

The major concept of sovereignty was first proposed by J. Bodin. Generally, the sovereignty of the state is defined as one of its most important attributes, accumulating the independence, unity, and supremacy of the state in the formation of domestic and foreign policy (Баранділй, 2020). Sovereignty is a sophisticated sign of the state. It concentrates on more significant features of the state organization of society. The nature of state sovereignty should be considered a necessary property of the state, the key aspects of which are independence, supremacy, unity, and publicity of state power (Богів, 2018). Such an approach can hardly be called completely relevant, since the rule of the state could be limited in favor of the protection of human rights. Nevertheless, such a definition makes it possible to establish that a sovereignty concept could be defined broader, covering several features, including independence.

Depending on the status of its bearer, the idea of state sovereignty, its concept, and its content throughout history have undergone significant changes. “The state is me,” said King Louis XIV of France, as if confirming the idea that at the beginning of the sovereignty concept, the monarch was considered its bearer. Then, turbulent socio-political changes formed the conditions for its revision in favor of the people.

One of the most striking examples of the ability of mankind to rapidly reconsider the concept and content of state sovereignty was the African decolonization process. The rapid changes toward democracy in the political structure of the countries of Western Europe in the middle of the 20th century turned out to be completely incompatible with the continuation of colonial policy.

However, the fact that the intensification of the processes of the colonial system in Africa ruination, the extension of the metropolitan states' sovereignty to their colonies, was a legal phenomenon that deserves significant attention. This statement is confirmed by the content of Article 22 of the Treaty of Versailles, which legally fixed the fact that the colonies and territories were under the sovereignty of the states that previously ruled them (H.M. STATIONERY OFFICE, 2015). From this provision, a legal statement of the legitimacy of the colonies being under the sovereignty of the metropolitan states is seen.

At the same time, fixing the boundaries of the exercise of one's sovereignty makes it possible to single out the nature of illegal behavior that is not covered by the protective function of state sovereignty, thereby confirming the thesis that no sovereignty can justify any gross violation of international law.

In terms of this viewpoint, the international community has rethought its attitude toward the phenomenon of colonialism. Thus, the preamble to the International Convention on the Elimination of All Forms of Racial Discrimination states that the United Nations has condemned colonialism and all practices of segregation and discrimination associated with it, wherever and in whatever form they may occur, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of December 14, 1960, confirmed and solemnly proclaimed the need to immediately and unconditionally put an end to all this (Верховна Рада України, 1994).

At the same time, according to the Declaration on the Granting of Independence to Colonial Countries and Peoples, it is noted that the subordination of peoples to foreign domination and their exploitation is a denial of fundamental human rights, which is contrary to the Charter of the United Nations (United Nations, 1960).

It can be seen from the above that the international community has embarked on the path of condemnation and a kind of gradual criminalization of colonialism, effectively removing it from the protective function of state sovereignty, thereby de jure limiting the sovereign rights of metropolitan states.

Thus, history testifies to the existing cases of a fairly rapid revision of the concept of state sovereignty and the boundaries of its implementation, which allows us to assert the dynamic development of this category and the existence of potential prerequisites for its revision at the present stage. This period of human history is very significant, as it serves as an example of how the criminalization of a certain type of activity can affect the restriction of the sovereignty of the state.

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EDUCATION UNDER ATTACK

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War is the most terrible test for a country and its people. Its aftermath becomes especially painful for children, who become the most vulnerable participants in the conflict. Not only is their health and safety at risk, but so is their education, development and future.

In 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights, consisting of 30 articles, including the provision that "everyone has the right to education". In the following decades, various international and regional treaties and declarations reiterate and develop this fundamental right.

In 1949 The Fourth Geneva Convention laid out protections for civilians during armed conflict, including that an occupying power — a military force controlling the territory of another country — that occupying authorities “are bound not only to avoid interfering with [the] activities [of schools], but also to support them actively…

Unfortunately, in countries at war and armed conflict, the right to education, as well as protections for civilians, is often violated.

In 1994, Russia, the United States, and Great Britain signed the Budapest Memorandum, which guarantees Ukraine's territorial integrity in exchange for giving up nuclear weapons.

In 2014, Russia became an aggressor country and violated the agreement with Ukraine regarding the status and conditions of the Black Sea Fleet of the Russian Federation on the territory of Ukraine, despite the fact that it previously guaranteed the security of Ukraine.

Responding to questions about non-fulfillment of obligations under the Budapest Memorandum, Putin said that if the events in Ukraine are considered a revolution, it means that a "new state" has been formed with which Russia has no binding documents.

According to the Minsk Protocol and the Memorandum, the parties were ordered to cease hostilities and units of military formations must be on the contact line as of September 19, 2014.

In 2022, Russia did not stop its military aggression against Ukraine, despite the demands of the UN International Court of Justice.

Destruction of educational facilities and limited access to education is a serious consequence of war for children. Restoration of education and infrastructure destroyed by hostilities requires significant efforts and resources. According to the Ministry of Education, since the beginning of the war in Ukraine, more than 2,600 schools have been damaged and more than 400 have been destroyed. Only about 25 percent of Ukrainian schools across the country have been able to offer face-to-face education since September.

Less than half of families with children under the age of five have the opportunity to return to kindergartens and participate in educational activities. Damage to schools and power outages following attacks on critical infrastructure also limited children's opportunities to receive an education.

Some 5.3 million children face barriers preventing access to education, including 3.6 million children directly affected by school closures. This places children in Ukraine at risk of losing critical years of schooling and social development.

As part of the full-scale invasion of Ukraine, the mass deportation of Ukrainian children to the territory of the Russian Federation from those areas that were occupied by the Russian army was carried out. The forced transfer of Ukrainian citizens to Russia is a crime against humanity, according to the 1998 Rome Statute of the International Criminal Court, and the 2006 International Convention for the Protection of All Persons from Enforced Disappearance. Currently, the Ukrainian authorities know for sure about more than 19,000 children taken from the occupied territories to Russia, but it is difficult to accurately count them due to the occupation of part of the territory of Ukraine.

Summarizing, the war in Ukraine significantly affected children and their education. Therefore, for the normal development of children during the war, it is

necessary to provide them with psychological support, find new approaches to the organization of the educational process, and ensure access to it for all children.

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THEORETICAL AND LEGAL ISSUES OF LEGISLATIVE SUPPORT FOR THE DIGITAL TRANSFORMATION OF ECONOMIC RELATIONS

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Over the past ten years, the European Union's Eastern Partnership policy towards partner countries has undergone significant transformations due to the rapidly changing socio-political and economic environment in the region. Over the past 4-5 years, the digitalization of the economy and society has become one of the priorities within this policy and continues to hold the attention of key stakeholders both on the part of the EU and within most of the EaP countries.

The new EaP policy until 2025 defines new long-term goals aimed at responding to new priorities, strengthening resilience to common challenges, promoting sustainable development, and continuing to deliver concrete results for citizens, one of which is to ensure sustainable digital transformation («*Digital transformations in Ukraine: do*

domestic institutional conditions meet external challenges and the European agenda?», 2020, p. 6).

In today's environment, effective economic life is impossible without broad investment attraction, long-term investments and a sound policy of introducing innovative and high-tech production methods, and investment attractiveness is determined primarily through a number of institutional norms (Kolyadenko, 2018, p.122-123).

The prerequisites for promoting Ukraine's digital agenda include recently developed legislation on the digital economy and telecommunications, digital infrastructure, and achievements in the field of cashless economy - the development of e-trade, e-trust, and cybersecurity. The Smart City initiative, launched by the Ministry of Digital Transformation, demonstrates the confidence of the authorities in the existing legislative and institutional framework for implementing comprehensive initiatives to build an ICT ecosystem at the regional/local level. The pro-European aspirations of Ukraine's digital development are confirmed by the development of the Strategy (roadmap) for Ukraine's integration into the European Union's Digital Single Market.

Adequate legal support for digitalization relations in a modern society with civilian characteristics includes two main components: stimulating its socially useful benefits and reducing threats/risks/their negative consequences (online fraud, cybercrime, negligent/unprofessional/ frivolous/inconsiderate use of digital technologies). Although the legal regulation of these relations exists, it has numerous shortcomings due to both objective factors (the rapid development of digitalization, the emergence of new information and communication technologies, the lack of highly qualified specialists who are familiar with such technologies and can determine the specifics of legal regulation of relations related to them) and subjective reasons (primarily the failure to fulfill the tasks outlined by the relevant concepts and strategies for improving the legal regulation of relations in the field of digitalization). Accordingly, the regulatory framework for digitalization relations has a number of shortcomings: dispersion of norms regulating digitalization relations in numerous legislative acts of different legal force, lack of unified terminology, a significant number of gaps (including those related

to virtual enterprises, artificial intelligence, the legal regime of internships and other business websites, the liability of their owners/actual owners, etc.), and most importantly, the absence of a core act (law or code) that defines the basic principles of digitalization/digital economy.

The absence of a codification act in this area in Ukraine is partially compensated by numerous legislative acts, some of which are specifically devoted to certain aspects of digital economy relations (the Laws "On Electronic Commerce", "On Electronic Documents and Electronic Document Flow", "On Electronic Digital Signature", "On Electronic Trust Services") and contain definitions of concepts related to the relevant relations.

At the same time, some relations regarding the use of information and communication technologies are also regulated by legislative acts, the main subject of regulation of which is other (not directly related to electronic resources) relations, in particular: The Commercial Code of Ukraine (enshrines the provision on mandatory publication by state, state-owned and municipal enterprises, business entities controlled by the state or local self-government bodies of information about their activities by placing it on their own webpage/website or on the official website of the entity managing state/municipal property that performs the functions of managing the enterprise - Articles 73, 75, 77, 78, 79, 90 of the Commercial Code).

The adoption of new acts (in particular, the Law "On Electronic Communications") fills certain gaps, but does not solve the problem of optimizing the legal regulation of these new relations, which already permeate all spheres of social life, including the economic one. The emergence of new structures (cyber troops, the creation of a cyber center, the adoption of the Concept of Artificial Intelligence Development and the action plan for its implementation) indicate the state's response to the specifics of digitalization, the undeniable benefits of which are enjoyed by all participants in social relations.

The process of optimizing the regulatory and legal support of digitalization relations is a very difficult task for legal science, which must solve a number of problems (in particular, to: identify the main trends in the dynamics of social relations

in the digital economy; assess the state/degree of effectiveness of legal regulation of these relations and identify problems associated with changes occurring with the emergence of new digital technologies and their application; find optimal ways to ensure effective regulation, taking into account not only the current to find the best ways to ensure effective regulation, taking into account not only the current state of these relations, but also the prospects for their development/changes), for the legislator (to create optimal, effective, adequate to the current state of the digital economy and the nearest prospects for its development legal regulation), for the government (to ensure consistent implementation in practice of the rules adopted by the legislator in the field of the digital economy). Solving this problem is a top priority given the undeniable benefits of digitalization (and, accordingly, the expediency of stimulating their use) and the existence of significant risks (public danger in the event of incompetent, frivolous, ill-considered or even criminal use of digital technologies and the resulting damage - not only material and moral, but also destructive to people's lives and the functioning of entire systems.

In Ukraine, various options are proposed for codifying the legislation governing these relations: by adopting a Digital Code, which should regulate digitalization relations regardless of its scope, define its basic principles, and a Digital Economy Code/Law. At the same time, it is advisable to improve the existing codes by filling them with relevant norms on the specifics of relations involving virtual entities, using digital resources/digital objects, provided that the general principles of digitalization of all spheres of public life are defined at the level of a law/code specifically dedicated to digitalization relations. Naturally, a single act, even a fairly thorough one, is not able to regulate the entire range of digitalization relations given their exceptional complexity, dynamism, the need for constant monitoring of the state of these relations and the degree of adequacy of legal regulation to changes related to the use of digital technologies, the impact/consequences of digitalization for certain areas/industries (Vinnik, 2021, p. 160-161).

For Ukraine, the development of digitalization processes is of additional importance, as it provides real prospects for modernizing the economy, improving its

production and technological structure, ensuring participation in the new global economy and overcoming the current crisis. However, the digital economy as a component of the information society requires appropriate legal regulation, which should be ensured, first of all, by a small codification act - the Law "On Digital/Electronic Economy", which should set out: a) definitions of concepts (digital/electronic economy, e-business, e-commerce, electronic contract, electronic services, e-government, electronic authorized bodies, electronic information exchange, online store, consumers of electronic services, etc. (Shapenko, 2019, p. 47- 48).

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THE ROLE OF LEGAL CLINICS IN TRAINING FUTURE LAWYERS: THE EXPERIENCE OF UKRAINE AND WORLD TRENDS

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A legal clinic is understood as a place where free legal aid is provided for low-income groups of the population, and in addition, practice for law students takes place in this way. For the first time, the concept of a "legal clinic" appeared in the article of German professor H. Frommgold, published in 1900.

In general, the idea of starting practical training for lawyers began to develop long ago. This was motivated by the fact that law students studied only the theoretical part, without having any practice, which later led to misunderstandings at the workplace.

According to D.I. Meyer, educational practice is the main link between theoretical knowledge and practical activity. Acquiring the skills and abilities to apply legal knowledge to specific situations was a key goal of such an internship. He developed a whole method of functioning the legal clinic, but, unfortunately, his clinic was outside the official status and had no sources of funding. Its activity took place only thanks to the efforts of the professor himself, and therefore, after his untimely death, the clinic stopped working. During the next forty years (until the beginning of the 20th century), such an institution as a legal clinic remained without development, as it was almost completely forgotten by scientists. ("Legal regulation of activities of legal clinics in Ukraine and foreign countries", 2019, p. 188)

Soon, in the 20th century, scientists wanted to expand the activity of legal clinics on the territory of Ukraine, but the revolution prevented this attempt and the clinic did not become sufficiently widespread.

It would be appropriate to say that the idea of using legal clinics for the practical training of young lawyers was ingeniously implemented in countries with the Anglo-

American legal system. For example, in the USA, a legal clinic appeared in the 20-30s of the 20th century.

Some American scholars believed that legal clinical education on the basis of a legal clinic was almost the best means to prepare qualified lawyers. Such education was based on the involvement of students in practical activities under the guidance of teachers, as well as already practicing lawyers. Since 1937, at the law faculty of Ohio University, participation in the work of the legal clinic was mandatory for students, because without such experience, future lawyers could not receive their diplomas. However, this practice did not take hold here either.

Over the next 30 years, legal education in the United States gained popularity, and the American Bar Association put forward recommendations for the establishment of such training as one of the types of practical training of future lawyers. The legal clinic was introduced in the USA; it even began to be financed.

Legal clinics became widespread in other countries, one of which was Hungary. In 1968 its government introduced significant amendments to some sections of the Criminal Procedure Code, which regulated the work of legal clinics. These changes gave students the right to represent the clinic's clients in court.

The appearance of legal clinics did not bypass Central and Western Europe, Central, South, and East Asia, Latin America and Africa. With the support of the Ford Foundation and the Rockefeller Foundation in the Republic of South Africa already in 1978, one of the universities formally recognized the first legal clinic. ("Legal regulation of activities of legal clinics in Ukraine and foreign countries", 2019, p. 189)

Let us analyze the experience of independent Ukraine in the development of legal clinics. The first legal clinic in our country was "Pro Bono". It was founded in 1996 on the basis of Kyiv National University named after Taras Shevchenko (it is still active today).

After active development during 1999-2006, there was a certain decline in interest in legal clinical education. An all-Ukrainian non-governmental organization, the Association of Legal Clinics of Ukraine, as an informal public community, was established in 2003, in order to ensure and further enhance the benefits of “clinical

education”. These organization activities are aimed at supporting the legal clinics of Ukraine’s functioning. (Saienko et al., 2020, p. 5)

An important achievement of our country was the publication of the order dated August 3, 2006 "On the approval of the Standard Regulation on the legal clinic of a higher educational institution of Ukraine", thanks to which the legal status of legal clinics was finally established at the national regulatory level.

Analyzing the statistics of the analytical study «Standardized educational measurements of 2018 in higher legal education. The Unified professional entrance test and the Unified entrance exam», we can claim that the best results were shown by those students whose universities had legal clinics.

The role of the legal clinic is indeed very important. The clinic helps law students to form a high level of legal awareness, to develop in them such skills as a sense of justice, the ability to properly communicate with people, critical thinking and many others. The legal clinic combines theoretical and practical knowledge, thanks to which novice lawyers can gain considerable experience.

Therefore, the history of the legal clinic's development is extremely diverse. In one period, it was actively studied, in another – no attention was paid to the existence of this institute. Now the legal clinic is an indispensable element of legal science in many countries of the world, which helps law students acquire practical skills. Currently, there are about 61 legal clinics in Ukraine, which indicates a sufficient level of interest in the integration of such clinics into the educational process.

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CONTROVERSIAL LEGAL LEGACY OF THE SILVER PLATTER DOCTRINE AND REVERSE SILVER PLATTER DOCTRINE

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In the USA criminal procedure, the *Silver Platter Doctrine* is known as a principle which allowed a federal court to admit evidence obtained illegally (according to federal laws) by a state law enforcement officer (who obtains it legally according to state laws) if a federal law enforcement officer did not participate in or request the search. Its origin is connected with the fact that until the middle of the XX century, the Fourth Amendment to the US Constitution and the exclusionary rule applied only to federal but not state officials. In 1914 in *Weeks v. United States,* the exclusionary rule was established by the United States Supreme Court saying that evidence obtained in violation of Fourth Amendment protections was not admissible in court due to the theory that the prohibition of unreasonable searches and seizures would be meaningless if the evidence obtained illegally were nevertheless admissible. This rule became the primary mechanism to enforce the Fourth Amendment rights against federal officers in federal court proceedings. It did not apply to state actors. Since that time state officials provided federal officers with evidence, seized in a federally unconstitutional way, and federal prosecutors used such evidence in federal criminal trials. It was Justice Frankfurter who in 1949 in *Lustig v. United States* said that state officers were handing unlawfully obtained but functional evidence to federal prosecutors on a "silver platter". That is why the doctrine got its name. The same year in *Wolf v. Colorado* the Supreme Court ruled that the concepts of the Fourth Amendment applied to the states through the

due process clause of the Fourteenth Amendment but the Court did not apply the exclusionary rule to the states. Thus, the cooperation of state and federal prosecutors in criminal investigations continued.

In 1960 in *Elkins v. United States,* the Supreme Court eventually rejected the Silver Platter Doctrine holding that the mentioned practice violates the Fourth Amendment protection against unreasonable search and seizure. It was recognized that evidence that would have been inadmissible if the search had been conducted by federal officials was also inadmissible in a federal trial if obtained by state officers. Justice Steward highlighted the contradiction that existed between the Fourth Amendment as enforced directly on federal actors and as enforced indirectly through the Fourteenth Amendment due process clause. In 1961 in *Mapp v. Ohio,* the Court held that the exclusionary rule applied to the states noting that "no man is to be convicted on unconstitutional evidence". Since that time any evidence illegally seized by a state has been considered inadmissible in either court system. Thus, the Silver Platter Doctrine was recognized as irrelevant.

Gray, Cooper and McAloon (2012) state that the Silver Platter Doctrine was rehabilitated in 1974 with *States v. Calandra* as the Court did not enforce the exclusionary rule when law enforcement officials introduced evidence legally obtained. It initiated a series of cases reconstituting this doctrine with evidence illegally seized during collateral proceedings including grand jury investigations, civil tax suits, habeas proceedings, immigration removal procedures, and parole revocation hearings. The researchers consider that the *Calandra* case introduced powerful incentives for officials to violate the Fourth Amendment and dramatically diminishes the force of the exclusionary rule.

The Reverse Silver Platter Doctrine works in the opposite way. It is connected with situations when state actors use evidence obtained in a way consistent with federal requirements but violating state constitutional protections and provided on a silver platter by federal law-enforcement officials. According to the long-standing constitutional principle, the US Constitution indicates that state Constitutions can provide additional protections to their citizens and states can go beyond the civil

liberties provided in the federal Constitution. The survey conducted in 2007 found that 28 states had heightened protections against unreasonable searches and seizures than the ones existed at the federal level (Gorman, 2007). It evokes controversy over the reverse silver platter doctrine. Evidence legally obtained by federal actors becomes unconstitutional under state rules. For example, sobriety checkpoints are illegal under the federal Fourth Amendment in Texas while in 1990 the U.S. Supreme Court held these checkpoints to be constitutional. There are numerous examples when state cases adopted the reverse silver plate doctrine. In *Morales v. State* (1981) in Florida, federal border officials discovered marijuana while searching the defendants' sea-going vessel without a warrant although it is illegal according to the law of this state. The evidence was submitted for state prosecution. The Florida Court of Appeals found the evidence admissible in either a federal or state court because the evidence was obtained in compliance with federal law.

Adoption of this doctrine differs in states. Several states adopted not a categorical but conditional reverse silver platter doctrine. It means that they apply the doctrine only if certain conditions are met. For example, evidence can be considered inadmissible if federal agents are involved as state agents. The degree of this involvement is not always clear. A vivid example is New Jersey *State v. Minter* (1989) case when the court found that the case involved a "joint, cooperative effort" that is why the evidence was excluded. To be admitted evidence has to be obtained only if federal agents "acted independently and without cooperation or assistance of our own state officers".

To conclude it should be noted that the Silver Platter Doctrine and Reverse Silver Platter Doctrine have a lasting legacy in USA criminal procedure. They are widely criticized for several reasons:

- the potential to undermine Fourth Amendment protections as evidence obtained in violation of the Fourth Amendment can be admissible in court, which can encourage illegal searches and seizures by law enforcement;

- stimulation of collaboration between law enforcement agencies of federal and state levels when officials know that they can ignore the Fourth Amendment;

- unfair advantage of prosecutors as they recognize that they can provide evidence that would be otherwise inadmissible;

- a contradiction to the exclusionary rule which provides for that illegally obtained evidence is inadmissible.

The Reverse Silver Platter Doctrine is also attacked for undermining the principles of federalism as federal actors can avoid state court rules and procedures. Generally, both doctrines are blamed for the potential to undermine the integrity of the criminal justice system. At the same time, its proponents believe that criminals who have committed crimes should be brought to justice and be accountable for their actions. Currently, the application of these doctrines is strictly regulated by various requirements and limitations that have to be further studied.

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POST-WAR DEVELOPMENT OF BUSINESS ACTIVITIES IN UKRAINE IN TERMS OF LEGAL SCIENCE

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The full-scale invasion of the Russian Federation caused negative consequences for Ukrainians. Systematic shelling of the territories of Ukraine with various types of weapons leads to victims, and loss of homes, human property, and infrastructure facilities. The destruction of the state and private enterprises has significant negative consequences. The first category includes enterprises of the energy infrastructure, the aviation industry, the military-industrial complex, and others. Business buildings of the second category (shops, restaurants, chemical and metallurgical plants, shopping centers, hypermarkets, gas stations, etc.) are also damaged. These arguments require research from a theoretical and practical standpoint taking into account legal aspects.

The purpose of writing a scientific work is to study the prospects for the development of entrepreneurship in the period of post-war reconstruction.

In order to solve the mentioned problems, it is necessary to involve specialists in legal, economic, and other sciences. They will contribute to a clear definition of the directions for achieving goals regarding the development of both business structures and Ukraine as a whole.

Agreeing with the research of scientists the war caused population emigration, a drop in GDP, a 20-25% reduction in the potential of industrial production, a blockade of ports and virtually zero percent of investments, redistribution of the country's annual budget (Puzyrova P., Herasymchuk M., 2022).

During martial law budget funds are mostly directed to the purchase of equipment, ammunition, food supply, and the creation of specialized factories for the manufacture of military equipment. The Armed Forces of Ukraine, the Security Service of Ukraine, the National Guard of Ukraine, and other military structures are working together for our victory.

For the fastest recovery of Ukraine the Interdepartmental National Council for Recovery of Ukraine from the Consequences of the War was created at the Office of the President (Polozhennia pro Natsionalnu, 2022). Its members include the Minister of Defense of Ukraine, the Minister of Youth and Sports of Ukraine, the Minister of Energy of Ukraine, the Minister of Education and Science of Ukraine, the Minister of Internal Affairs and others. Let us consider the powers of the advisory body **(figure 1).**

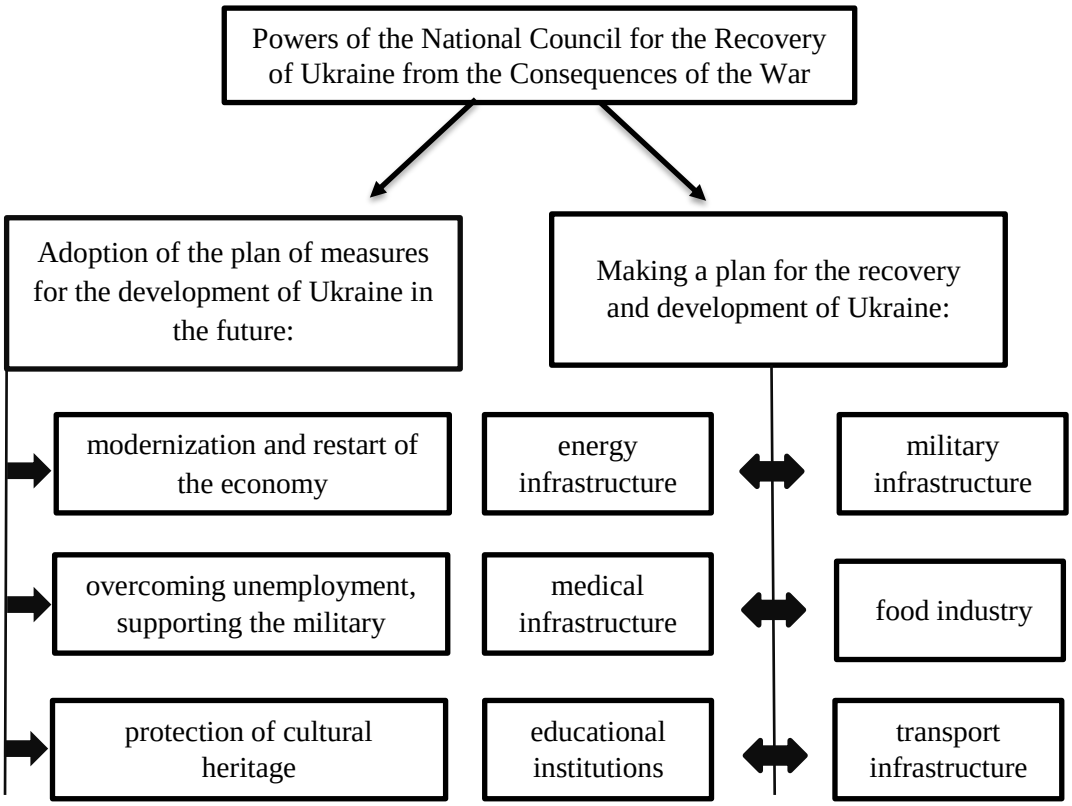

Figure 1. Powers of the National Council for the Recovery of Ukraine from the Consequences of the War

**Source: made by the author.*

The economic rise of Ukraine depends on law enforcement agencies because foreign partners demand the fight against corruption and the arrest of criminals. International organizations seek to allocate funds for Ukrainians, not for the development of an oligarchic state. The world's leading countries demand the arrest and investigation of persons involved in the war in Ukraine and who cooperated with Russia. In the future, all units of law enforcement agencies must monitor compliance

with the legislation of Ukraine. These actions will help Ukraine gain the trust of European countries and create favorable conditions for the restoration of the state.

Ukraine is a country for investments, that`s why foreign partners can build branches of their enterprises on the territory of the country, developing its economy. Besides joint projects, partnership agreements, and trade is the promising direction of cooperation between Ukraine and the world.

Stimulation is the main factor in the development of enterprises on the territory of Ukraine in the future. The European Union, the Council of Europe, and other international organizations plan to financially assist the country in restoring damaged or destroyed infrastructure. Small and medium-sized businesses that were destroyed during shelling and occupation will be able to receive money for compensation. This will lead to the modernization of equipment and a reduction in maintenance costs.

In addition, European partners will purchase Ukrainian military equipment currently operating on the battlefield. Our military tests various types of weapons, so they can give advice to scientists in this field of industry and defense. After that defense industry of Ukraine will be able to reach a new level of export.

Agriculture is one of the main industries that bring income to the budget of Ukraine. The location of the state facilitates the cultivation of not only grain crops but also fruits, vegetables, etc. Therefore new markets for the construction of products will open up for Ukraine.

The results of the study allow us to conclude that in the future entrepreneurial activity in Ukraine has favorable conditions for further development. Specialists in legal, economic, technical, and other spheres should contribute to the solution of this task. Because a significant number of questions require clarification of these categories of specialists.

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BRIEF HISTORICAL SUMMARY OF THE ISSUE OF POLITICAL ABUSE OF PSHYCHIATRY IN THE SOVIET UKRAINE

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After Stalin's death, the Soviet government tried to convince the world that they brought an end to the heritage of Stalinism[1]. However, Ukrainian psychiatry experienced a severe political abuse by the Party. During the Khrushchev Thaw in the late 1950s and the early 1960s, the Ukrainian dissident movement gained further momentum in the country (Bertelsen, 2014). Thus, 'the spatial restructuring of psychiatry as a medical practice and as a theoretical discipline became especially important for the state' (ibid., p.32). Some scholars claim that political uses of 'psy' discipline in the Soviet Ukraine 'targeted very specific groups of dissenters' – Ukrainian nationalists who 'advocated national and cultural autonomy' in the country (ibid., p.38). Furthermore, those medical professionals who refused to cooperate with political abuse of psychiatry or tried to resist this misuse of medical science were subjected to severe repressions from the government.

[1] See *Hearing before the Subcommittee on Human Rights and International Organizations of the Committee of Foreign Affairs and the Commission on Security and Cooperation in Europe House of Representatives,* 1984, p. 3.

Moreover, the Serbskii Institute of Forensic Psychiatry in Moscow, with its 'core psychiatrists' Morozov, Snezhnevskii and Lunts, (ibid.) played a crucial role in 'politically sensitive' cases of Ukraine, where many political dissidents were referred for psychiatric examination of their sanity (Dratcu, Gluzman and Ougrin, 2006). Thus, '[t]his Institute became a psychiatric subsidiary of the KGB' with '[t]he special fourth department […] that was fully subordinated to the [Committee for State Security]' (Bertelsen, 2014, p. 36). In Ukraine, there was the notorious Dnepropetrovsk Special Psychiatric Hospital, which occupied premises of a former prison, and where many Ukrainian dissidents were confined after their psychiatric evaluation in the Serbskii Institute. Likewise, Saburova Dacha, a psychiatric hospital in Kharkiv[2] has also some evidence of psychiatric abuse as well as 'sadism and brutality exercised by its staff' (ibid., p. 44) during the Soviet times. However, there were some medical professionals who dared to oppose the abuse of 'psy' profession and human dignity in the hospital, for example, the aforementioned Gluzman, or a psychiatrist from Kharkiv, Koriagin. The latter, who co-operated with the Working Commission,[3] was 'one of the most vocal advocates of Soviet psychiatry's purification' until his arrest in 1981 (ibid., p. 46).

On the whole, Soviet psychiatric abuse attracted public attention in the early 1970s, when it became a central issue during the World Psychiatric Association[4] debates. Thus, for example, in 1971 the issue of systematic political abuse of psychiatry in all the states of the Soviet Union was raised during the WPA conference in Mexico City. As a result, in 1973 the WPA created a committee of ethics. Furthermore, in 1976 the Moscow Helsinki Group was set up a year after the Soviet Union had signed the Helsinki Accords which obliged the states to 'respect human rights and fundamental freedoms'.[5]

The Ukrainian Helsinki Group was founded in the same year, the members of which were trying to confront the Soviets' human rights violation but faced severe oppressions from the government. As a result, its members were arrested and

[2] The history of psychiatry in Kharkiv goes back to 1776 when an asylum for mentally disturbed people was built, which moved to another building in 1812, known as 'Saburova Dacha'. It became one of the largest psychiatric hospitals in the Russian Empire. See Nalivaiko, 2017.
[3] The Working Commission was organised under the umbrella of the Moscow Helsinki Group to investigate the political abuse of psychiatry.
[4] The acronym WPA is used further in the text.
[5] See 'Helsinki Accords' in *Britannica*.

imprisoned or forced to emigrate. In 1977, another issue of the uses of psychiatry for political purposes was raised in the WPA Hawaii conference. In response to this, a committee to review misuse of psychiatry was set up in 1979 (Dratcu, Gluzman and Ougrin, 2006). Furthermore, the International Association on Political Use of Psychiatry[6] was organised in 1980 in order to combat the perversion of the political abuse of psychiatry (ibid.).

However, all the attempts to stop the misuse of psychiatry within the Soviet context failed. Human rights continued to be violated systematically by the totalitarian[7] Soviet government through the diagnosing of sane dissidents as mentally ill and their incarceration in psychiatric hospitals,[8] which were 'politically controlled psychiatric institutions' (ibid., p. 101). The evidence of this can be seen in the reports issued in 1975, 1980 and 1983 by Amnesty International, a worldwide human rights organisation, on hundreds of victims in the USSR who were confined in psychiatric hospitals for political and not medical reasons (ibid., p. 63). Noteworthy, 'Amnesty International regards persons who have been confined to psychiatric hospitals for activities protected under international human rights law and standards to be not "patients," but Prisoners of Conscience' (ibid., p. 67). In their report from 1983, it was claimed that they continue 'to seek release of […] all […] Prisoners of Conscious in the USSR' (ibid., p. 69).

As a result, the issue of political abuse of psychiatry in the Soviet Union was brought to the centre of the WAP debates. In 1983 nine members of the WPA voted for the expulsion or suspension of the USSR. In response to this, the Soviet Union resigned from the WPA, blaming the USA in a 'propaganda campaign' against the Soviets (ibid.).

I would like to end this article with an abstract taken from a letter written in 1976 by a Ukrainian prisoner of conscience, Ukrainian dissident, Mykola Rudenko, during his detention in a psycho-neurological hospital:

'These lines are addressed to the people of good will who are bringing together their forces for human rights protection; to the people who have realized that it is impossible to enjoy freedom while somewhere in the world violence is triumphing; to the

[6] It was renamed later into the Global Initiative on Psychiatry.
[7] 'Totalitarian' refers to 'an all-power state'. See Ffytche and Pick (eds.), 2016, p. 222.
[8] See *Hearing before the Subcommittee on Human Rights and International Organizations of the Committee of Foreign Affairs and the Commission on Security and Cooperation in Europe House of Representatives*, 1984, p. 7.

people whose moral conscience cannot stay calm when […] a thousand voices call of freedom fighters can be heard: "Brothers, help!" [...] The conscience resents: how long? Unfreedom, arbitrariness, violence are diseases of humanity. They are difficult, chronicle illnesses. They can be treated only when every citizen of the Earth realizes: if I keep silence, the humanity will die'.[9]

Let us not be silent!

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OFFICIAL NECESSITY AS ONE OF THE TYPES OF CIRCUMSTANCES EXCLUDING THE UNLAWFULNESS OF AN ACT

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Today, there is an urgent need to study the issue of official necessity and its legal nature, to determine the place of official necessity in the system of circumstances excluding criminal liability, and to form a scientific approach to understanding official necessity, which leads to the solution of a number of theoretical and practical issues related to this problem.

Official necessity is one of the types of circumstances that exclude the unlawfulness of an act. It arises when an official is compelled to commit an act in order to fulfill his/her official duties and there is no other way to achieve this goal. The legal analysis of the legal nature of official necessity allows us to distinguish it from extreme necessity and to apply its rules by analogy.

Official necessity has a special place in the system of circumstances excluding criminal liability. It differs from other circumstances in that it arises only in the performance of official duties, and not in the everyday life of a person. Understanding the place of official necessity in the system of circumstances excluding criminal liability is important for the correct application of legal norms in practice.

To understand official necessity, it is necessary to develop a scientific approach. This involves analysing the criteria for distinguishing official necessity from extreme necessity and examining problematic issues such as determining the totality of signs of

an act committed in conditions of official necessity and the grounds for its commission. A scientific approach to understanding official necessity can lead to the development of a clear and consistent legal framework that will help to solve a number of theoretical and practical issues related to this issue.

Another problematic issue in the understanding of official necessity is the grounds for its commission. In general, official necessity arises when an official is faced with a situation where he or she must choose between two evils, and the act committed is the lesser of the two. However, there may be cases where an official exceeds the limits of necessity or commits an act that is not directly related to his or her official duties. In such cases, the act may not be considered lawful.

Thus, the issue of official necessity and its legal nature is an urgent issue that requires careful study. Understanding the place of official necessity in the system of circumstances excluding criminal liability and developing a scientific approach to understanding it can lead to the solution of many theoretical and practical issues. Further research is needed in this area to ensure the proper application of legal norms in practice.

Official necessity is a concept that recognises that governmental officials may have to engage in actions that would otherwise be considered unlawful in order to carry out their duties and responsibilities. The legal nature of official necessity is complex and requires a detailed analysis of its criteria and application.

One of the key criteria for distinguishing official necessity from extreme necessity is the presense of a special subject - an official. This means that the act in question must be performed by an individual who is authorized by law to carry out the specific action. Furthermore, the act must be necessary to achieve a lawful purpose and must not exceed the limits of what is necessary.

Another criterion is the absence of alternatives. This means that there must be no other means available to achieve the lawful purpose in question. In other words, the act must be the only way to prevent harm or damage from occurring.

It is also important to note that official necessity is subject to strict conditions and scrutiny. The act must be proportional to the harm or damage that is being prevented, and the harm caused by the act must not be greater than the harm prevented.

Official necessity plays a crucial role in the system of circumstances that exclude criminal liability. It is one of the ways in which individuals can avoid criminal liability for actions that would otherwise be considered unlawful. However, it is important to examine how official necessity differs from other circumstances that exclude criminal liability.

Firstly, official necessity is distinguished from self-defense. Self-defense is a circumstance that allows individuals to use force to defend themselves against an imminent threat of harm. Official necessity, on the other hand, allows officials to engage in actions that would otherwise be considered unlawful to carry out their duties and responsibilities.

Secondly, official necessity is different from duress. Duress is a circumstance that arises when an individual is forced to commit a crime under threat of harm. Official necessity, on the other hand, arises when an official is required to engage in an otherwise unlawful act in order to prevent harm or damage from occurring.

Finally, official necessity is distinguished from mistake of fact or law. Mistake of fact or law arises when an individual believes that their actions are lawful but later discovers that they are not. Official necessity, on the other hand, arises when an official knows that their actions are unlawful but believes that they are necessary to prevent harm or damage.

In order to fully understand the concept of official necessity, it is important to adopt a scientific approach. This means conducting a comprehensive analysis of the legal framework, case law, and scholarly literature to develop a clear understanding of the criteria for distinguishing official necessity from other circumstances that exclude criminal liability.

One of the problematic issues in understanding official necessity is determining the totality of signs of an act committed in conditions of official necessity. This requires a careful examination of the circumstances surrounding the act, including the

nature and extent of the harm or damage that was prevented, the availability of alternatives, and the proportionality of the act. A comprehensive analysis of these factors is necessary to determine whether the act was justified and lawful.

Another problematic issue is determining the grounds for the commission of an act in conditions of official necessity. This requires a careful examination of the duties and responsibilities of the official, as well as the nature and extent of the harm or damage that was prevented. It is important to consider whether the official acted in good faith and whether the act was necessary to carry out their duties and responsibilities.

In order to address these problematic issues, a scientific approach is necessary. This requires conducting a detailed analysis of the legal framework, case law, and scholarly literature to develop a clear understanding of the criteria for distinguishing official necessity from other circumstances that exclude criminal liability. It also requires careful consideration of the circumstances surrounding the act and the grounds for its commission to ensure that it was justified and lawful.

In summary, this paper has highlighted the urgent need to study the issue of official necessity and its legal nature, and to determine the place of official necessity in the system of circumstances excluding criminal liability. We have also emphasised the importance of forming a scientific approach to understanding official necessity in order to solve a number of theoretical and practical issues related to this issue.

I have examined the legal nature of official necessity as one of the types of circumstances excluding the unlawfulness of an act, and we have described the criteria for distinguishing official necessity from extreme necessity. I have also analysed the place of official necessity in the system of circumstances excluding criminal liability, and how it differs from other circumstances that exclude criminal liability.

It is important to study the issue of official necessity and its legal nature as it has significant implications for the criminal justice system. The formation of a scientific approach is essential to ensure that the criteria for distinguishing official necessity from other circumstances excluding criminal liability are clear and consistent.

Nonetheless, further research in this area is necessary to address the remaining problematic issues and to develop a comprehensive understanding of official necessity.

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AGRICULTURAL BIOTECHNOLOGY FOR SUSTAINABLE FOOD SECURITY

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Global food security has been under threat by the lots of reasons, but the most important reason today is a war between Russia and Ukraine. Ukraine is an important producer of agricultural commodities: Ukraine contributes to the global exports of sunflower oil (31% of the world's production), barley (13%), and wheat (10%), maize (15%). Several countries rely on imports from Ukraine for their basic food supply: North African and Middle East countries, Eastern African countries (Russia’s war on Ukraine: Impact on food security and EU response, 2022).

The EC has reported that food availability is currently not at stake in the EU, since the continent is largely self-sufficient for many agricultural products. However, the war in Ukraine has exposed the dependency of agricultural production in the EU on energy, animal feed and feed additives, and agricultural fertilizers (Tyczewska A., Twardowski T. & Woźniak-Gientka E. (2023), p.334).

In this situation the efforts of scientists, farmers, producers, and consumers should be coordinated to realize opportunities and use the potential of the biotechnology sector to ensure food security. Kurman T. (2018, p. 98) stipulates that using of

biotechnologies, in particular GM, in the process of agricultural production will allow to achieve certain positive results, primarily to solve the food problem; and also fight against agricultural waste with the help of biotechnology; develop and use biological means of combating pests and diseases in crop production; biological drugs are successfully used for the treatment of diseases agricultural animals, as feed additives, silage starters, etc.

There is no legal definition of the concept of biotechnology, we would like to turn to the concepts specified by scientists. Piddubnyi O. stipulates that the sphere of biotechnology is a set of types of scientific and technical activity in various branches of social life, which includes application of techniques and methods of using biological processes in order to meet the needs of human and society. (Kurman, 2018, p. 98). Biotechnology in agriculture also called “green biotechnology”. Green biotechnology is the application of biotechnological methods to improve the quality of agricultural products or increase yields. (Herdegen, 2023, p.5).

Kurman T. (2019, p.23) classifies biotechnologies used in the agricultural production into the following types based on safety for human life and health and the environment: (a) which are useful for humans and for the environment; (b) which may have a potential risk to human health or the environment, but which can be prevented by certain preventive measures; (c) which may have a potential or even actual risk to human health or the environment and which cannot be predicted, monitored or warned using the technologies and technical means available today.

Current legislation of Ukraine does not include the necessary regulation of using biotechnology in agricultural producing. However, the European Commission (EC) introduced the European Green Deal. One of the important agendas of the European Green Deal is a fair, healthy, and environmentally friendly food system. For this purpose, the EC designed a strategic document – the ‘Farm to Fork Strategy’ – the overall goal of which is to transform the way food is produced and consumed. (Tyczewska A., Twardowski T. & Woźniak-Gientka E., 2023, p. 331).

The Farm to Fork Strategy aims to accelerate transition to a sustainable food system that should: have a neutral or positive environmental impact; help to mitigate

climate change and adapt to its impacts; reverse the loss of biodiversity; ensure food security, nutrition and public health, making sure that everyone has access to sufficient, safe, nutritious, sustainable food; preserve affordability of food while generating fairer economic returns, fostering competitiveness of the EU supply sector and promoting fair trade. The strategy sets out both regulatory and non-regulatory initiatives, with the common agricultural and fisheries policies as key tools to support a just transition. (European Commission.“Farm to Fork strategy”).

The proposal for a legislative framework for sustainable food systems (FSFS) is one of the flagship initiatives of the Farm to Fork Strategy. As announced in the Strategy, it will be adopted by the Commission by the end of 2023. Its goal is to accelerate and make the transition to sustainable food systems easier. (European Commission. “Legislative framework for sustainable food systems”)

Another example is Brazil. The strengthening of the biotechnology sector in Brazil wad intensified in mid-2007 when the government approved the Biotechnology Development Policy (PDP) with a view to making the Brazilian bio-industry a major international competitor. Biotechnology policy was developed to capitalize on and conserve Brazil's immense natural resources and biodiversity, transforming them into bio-businesses and wealth. In line with the above, current science, technology and innovation policies for development name biotechnology as a strategic area with great potential for growth, as it has a strong industrial application in sectors that account for a considerable part of exports the agribusiness and the energy sector. (Márcio Nannini da Silva Florêncio a, Ana Karla de Souza Abud a, Benedita Marta Gomes Costa b,& Antonio Martins Oliveira, 2020)

Ukraine is not a part of the market for the commercialization of biotechnology, but Ukraine uses it for cultivation and effective use of the soil, cultivation of crops, animal husbandry. In addition to the advantages of using biotechnologies, there are also possible negative environmental, socio-economic and other risks. Therefore, all cases and procedures for the use of biotechnology must be clearly regulated.

Thus, the first step in the improvement and development of this area is to develop the procedure and rules for the use of biotechnology in agricultural production at the legislative level through the further research, development and adoption of a law.

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SOCIAL DIALOGUE IN UKRAINE: ISSUES AND WAYS OF IMPROVEMENT

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In 2023, the development and implementation of a program for political and economic support of the development of social partnership in the sphere of country's recovery based on the establishment of new balanced labor relations between the participants of social dialogue, taking into account the domestic experience of crisis situations and the experience of EU countries, is an integral part of Ukraine's development.

Social dialogue in Ukraine is a process of interaction between the state, employers, and trade unions aimed at regulating labor relations and improving working conditions. Within the framework of social dialogue, parties discuss various issues related to labor relations, taking into account wages, working hours, safety and health conditions, social protection, and so on. This process contributes to improving the quality of life of workers and strengthening the country's economy as a whole. The purpose of social dialogue is to achieve a compromise among all participants in the process, promote entrepreneurship, and ensure a balanced distribution of benefits between employers and workers.

According to current legislation in Ukraine, social dialogue is based on the principles of good neighborliness, cooperation, and mutual respect and aims to achieve a joint agreement on employment issues, working conditions, and social protection of workers. Social dialogue is also an important tool for ensuring social stability and economic development in the country.

Social partnership is an integral component of adequate regulation of labor relations in any society. The importance of establishing a system of social dialogue in Ukraine between employers, workers, and the state is due to the need to activate their participation in establishing decent working conditions, reducing unemployment and poverty levels, forming a proper competitiveness of the economy, and as a result, ensuring high living standards for people.

The main problems of social dialogue in Ukraine today are:

–low level of worker organization: only a portion of labor collectives have a trade union organization, which complicates the process of negotiations and conclusion of collective agreements;

– insufficient level of participation of state authorities in social dialogue: often legislative acts do not correspond to the interests of workers and do not take into account the positions of their representatives;

– insufficient objectivity of the parties in social dialogue: usually employers have advantages in negotiations, as they have better resources and can use various methods of influencing workers;

– insufficient effectiveness of dialogue: often negotiations do not lead to real results, as parties cannot reach a consensus on key issues;

– insufficient culture of social dialogue: often negotiations are accompanied by a hostile atmosphere and mutual restrictions in positions, which complicates reaching a compromise.

The above-mentioned problems do not allow for ensuring an adequate level of social protection for workers and affect the creation of adequate conditions for the development of the economy and the social sphere as a whole. Their solution requires joint efforts of the parties to social dialogue, state authorities, and society.

The experience of regulating the social dialogue process in highly developed European countries has significant importance for the development of a civilized process of social dialogue in Ukraine, which would meet the needs of civil society and a socially oriented market economy. The high level of socio-economic development in these countries has been achieved to a large extent thanks to fruitful cooperation between social partners. Different models of social partnership have emerged in accordance with the socio-economic and national characteristics of these countries. The European Union countries have a wealth of experience in developing social dialogue, which helps to ensure the stability of labor relations and improve social standards of living. To achieve this, certain measures must have been taken:

– legislative regulation. EU countries develop and implement legislative acts that define the rights and obligations of employers and employees in the field of labor. The legislation also provides for mechanisms of social dialogue, including the conclusion of collective agreements and participation in the work of socio-economic councils;

– formation and support of organizations. EU countries support the development of trade unions and employers' organizations that represent the interests of their members and participate in social dialogue with the government and other interested parties;

– increasing the level of awareness. Measures are taken in EU countries to increase the level of awareness about the rights and obligations of employees and employers, mechanisms of social dialogue, and opportunities to influence decision-making in the field of labor;

– development of dialogue at various levels. EU countries develop social dialogue at various levels – from enterprises to the national level. To this end, various mechanisms and tools are created that help to ensure effective dialogue between all stakeholders.

The integration of Ukraine into the EU requires, first and foremost, changes to current legislation in the areas of social partnership, labor, and civil law. Therefore, the practical organization of effective social dialogue through the prism of integration into current legislation, primarily the Constitution of Ukraine, European legal norms, international partners' experience, and the latest research is a key stage in forming an

efficient social dialogue model. It seems possible to assess the real prospects for forming social dialogue in Ukraine in this area, without limiting the analysis to the regulatory and legal framework only. In turn, the effectiveness of any law and its successful implementation require time. Thus, after creating an institutional basis for social dialogue, the next step should be to establish a system of social partnership as a daily practice of social and economic life, the root of which is still in the early stages in Ukraine.

The country's recovery in the current situation is impossible without the help of international partners, requiring constant legal work to improve current constitutional principles in the integration of European countries' experience in regulating and developing social and economic relations between social dialogue participants. Therefore, combining the experience of EU countries with domestic experience can help improve the constitutional and legal approach to ensuring the implementation of the social dialogue mechanism and promote economic development not only in individual regions but also in the country as a whole. It follows from the above that the necessity of creating legal principles for ensuring social dialogue in Ukraine, taking into account the experience of EU countries, is an integral component of the integration process into society, the state's programs for decentralization of power, and regional development as independent units and the development of social and labor relations as a whole.

To address the problems of social dialogue in Ukraine, the following measures can be proposed:

– legislative changes. It is necessary to make changes to the existing legislation to ensure more effective social dialogue. This may involve changes to the rights of trade unions, employers, and employees;

– development of trade union movement. It is necessary to support the trade union movement in Ukraine, including through financial and organizational support for trade unions, their projects, and initiatives;

– development of dialogue at regional and local levels. It is important to ensure the development of social dialogue at regional and local levels in order to provide more effective conflict resolution and support for regional development;

– increasing the qualifications of social dialogue participants. It is necessary to provide training, seminars, and workshops to increase the qualifications of social dialogue participants;

– providing information support. It is necessary to provide access to information about social dialogue, including the rights and obligations of participants, legislation;

– involvement of civil society organizations in social dialogue. It is important to involve civil society organizations in social dialogue in order to ensure wider participation of the public in processes related to this dialogue.

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THE ATTITUDE OF FOREIGN TOURISTS TO THE WAR IN UKRAINE

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When conflicts or wars occur in a country, it is not uncommon for foreign tourists to become hesitant or even reluctant to visit that particular destination. This can be due to concerns about safety and security, as well as fears of being caught up in the conflict.

In addition, conflicts and wars can have a significant impact on the infrastructure of a country, with travel restrictions, border closures, and other disruptions to tourism-related services being put in place. This can make it more difficult and less appealing for foreign tourists to visit.

Russia's military offensive in Ukraine represents a downside risk for international tourism. It has exacerbated already high oil prices and transportation costs, increased uncertainty and caused a disruption of travel in Eastern Europe.

Tourists may have various attitudes towards a war or conflict, depending on their personal beliefs, values, and experiences. Some may choose to avoid traveling to a country experiencing a war, while others may be curious to witness the situation first-hand. Some may feel sympathy towards the people affected by the conflict and may want to support them through tourism, while others may have negative attitudes towards a country or group involved in the conflict.

In some cases, foreign tourists may still choose to visit a country affected by conflict, either because they are willing to take the risk, or because they want to show support for the local population. Additionally, some tourists may be interested in the history and culture of a conflict zone and may choose to visit for educational or research purposes.

Overall, tourists' attitudes towards the war in Ukraine may vary based on various factors, such as their home country, the purpose of their visit, and their personal views on the situation.

European tourism support to the people of Ukraine can come in various forms, including: housing assistance for Ukrainian refugee, assistance with employment and travel by public transport. Many countries have introduced certain benefits for Ukrainian refugees. For example, Estonian hotels are the first contact point for refugees, providing the first place to relax and sleep after a long journey. For instance, in Tartu a refugee centre is opened in a hotel. Accommodation establishments offer to hire Ukrainian refugees on the spot and there is a possibility that a refugee lives and already works in a hotel where he or she arrived. The Unemployment Insurance Fund opened a job offer environment for Ukrainian war refugees, there are also many offers from

tourism enterprises. Public transport in Estonia is free for Ukrainian refugees. Refugees who have fled Ukraine can get a public transport card from the local government, or from the regional Public Transport Centre, which is valid on buses within city limits as well as buses on county lines. Also, more than 60 Estonian museums and exhibition institutions have decided to grant free admission to Ukrainian war refugees on the basis of a document certifying citizenship. The aim of the initiative is to facilitate the integration of war refugees in Estonia. Free cultural and leisure activities in Tallinn.

In conclusion, the attitude of foreign tourists towards the war in Ukraine can be complex and multifaceted. While conflicts and wars can have a negative impact on tourism, with some foreign tourists becoming hesitant or reluctant to visit a country experiencing conflict.

European tourism support can play an important role in promoting Ukraine as a safe and attractive destination, encouraging responsible and sustainable tourism practices, providing financial support to local businesses and communities, and organizing cultural and educational exchanges. By supporting the people of Ukraine through tourism, European tourism organizations can help to promote economic and social development, foster cross-cultural exchange and understanding, and demonstrate solidarity.

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ABUSE OF RIGHT TO FILE A CLAIM IN CIVIL PROCEDURE: EXPERIENCE OF THE UK AND UKRANIAN REALITIES

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The inadmissibility of abuse of procedural rights is incorporated in Civil Procedure Code of Ukraine (CPC) as one of the principles of civil proceedings (Art. 2 para. 3 of the CPC of Ukraine). Article 44 of the CPC of Ukraine, apart from provision saying that the abuse of procedural rights is not allowed, contains the obligation for the parties of the court proceedings and their representatives to use their procedural rights in good faith. Abuse of the right of action is a relatively new notion in the civil procedural law of Ukraine, since this right is traditionally considered as a possibility to apply to court, which is associated with the need to comply with the subjective and objective prerequisites for its exercising (Komarov, 2011).

Thus, according to para. 2 of Art. 44 of the CPC of Ukraine, depending on the specific circumstances, the court may recognize as an abuse of the right to file a claim the following actions: filing several claims against the same defendant(s) with the same subject matter and on the same grounds, or filing several claims with the same subject matter and on the same grounds, or committing other actions aimed at manipulating the automated distribution of cases among judges; filing a deliberately unfounded claim, a claim in the absence of a subject matter of dispute or in a dispute that is obviously artificial.

In addition, in order to avoid the possibility of abuse of the right of action by filing identical claims, the CPC of Ukraine contains a provision saying that a judge shall refuse to open proceedings in a case if there is an effective court decision or ruling to close proceedings between the same parties, on the same subject matter and on the same grounds, or there is a court order that has entered into force on the same requirements (para. 1 of Art. 186 of the CPC of Ukraine).

The Civil Cassation Court within the Supreme Court has held that claims are considered identical if there are the same parties, grounds and subject matter of the dispute in the proceedings, i.e. when the claims are completely identical in terms of the parties of the civil proceedings, material and legal claims and circumstances justifying the application to the court. However, the difference of at least one of these criteria allows the interested parties to apply to the court (*Civil Cassation Court, 2019*), which creates an opportunity to circumvent final court decisions by filing new claims, which, although are not identical, but are based on the same factual circumstances of the case and are aimed at a relitigation of the same issues.

However, these criteria are of an evaluative nature and the court should consider the matters on a case by case basis. It is worth noting that in the countries of Anglo-American law, this phenomenon is called "collateral attack", which means "indirect appeal", a challenge of a previous court judgement by initiating a new proceeding rather than by filing a direct appeal. In this context, it would be relevant to take into account the case law of these countries, the United Kingdom in particular.

Some guidelines for the application of the doctrine of procedural rights abuse were developed in the case of *Allsop v Banner Jones Ltd (2021)*, in which the claimant brought proceedings against his former solicitors and the counsel alleging that they had acted in breach of contract and / or negligently in advising and / or acting for him in the previous divorce case, in particular, preparing the claim improperly, failing to prepare evidence, failing to provide advice on the case strategy, improper defending in the court and failing to provide the advice on filing an appeal. As a result, but for the alleged breach of contract and / or negligence of the claimant's legal advisers, the outcome of the earlier litigation would have been better for the claimant.

Considering the case, the court of first instance concluded that the proceedings were initiated to circumvent the legal force of the decision in the divorce case, which indicated an abuse of process, as it did not correspond to the "Phosphate Sewage test", named because of the decision in *Phosphate Sewage v. Molleson (1879)*, according to which relitigation of a case is allowed only where there is new evidence that fundamentally changes an aspect of the case.

However, the Court of Appeal noted that the abovementioned test is applied to situations where due to the principle of *res judicata* the existence of a final judgment in a case means that a relitigation is prohibited if the parties and the subject matter of the dispute are the same in the previous and subsequent proceedings. The Court formulated a test according to which, if the parties to the previous proceedings are different from the parties to the later proceedings, the latter may only constitute an abuse of process if (a) it would be manifestly unfair to a party to the later proceedings that the same issues should be relitigated or (b) to permit such relitigation would bring the administration of justice into disrepute.

An example of a case where the continuation of proceedings was recognized to constitute an attempt to contest the final decision of the earlier court is *Tinkler v Ferguson (2021)*, which arises from a battle between the plaintiff, Mr Tinkler, who was a shareholder and the director of the Company and was dismissed from his position by the Company Board. Mr Tinkler launched an Action against the members of the Board seeking redress for the publication which was made by the Company on the London Stock Exchange special announcement service – the Regulatory News Service ("RNS"), which he considered to be defamatory of him and published maliciously.

Soon Mr Tinkler was dismissed as a director of the Company and the legitimacy of the dismissal was later confirmed by a court decision in the case brought by the company against Mr Tinkler. The court held that the Mr Tinkler had breached his duties and that his dismissal as an employee and removal as a director was valid. At the same time, the court, taking into account the pending defamation proceedings, noted that it would not analyze the issues which were decided in the libel proceedings, but examine whether some member of the Board acted in breach of fiduciary duty by making such publication.

When considering the defamation action, the court of first instance noted that both the defamation action and the Company's action against Mr Tinkler concern the same essential dispute between the directors the company and the defamation action relating to the publication of the announcement were focused on only a small part of the overall dispute. The court decided to strike out the defamation action on the basis that it

constitutes a collateral attack on the judgment in the proceedings initiated by the Company against Mr Tinkler.

The Court of Appeal upheld the strike out and added that in both proceedings Mr Tinkler was making the same essential complaint about the same individuals and that the continuation of the defamation proceedings (in fact, the relitigation) constituted an abuse of process. As for the RNS Announcement, the Court concluded, that it could not be separated from earlier and later events and the Court would have to rehear the similar evidence from the same witnesses.

To conclude it should be noted that, although the problem of abuse of procedural rights is a factor that destabilizes the administration of justice and creates serious obstacles to effective dispute resolution, an overly broad interpretation of this concept may lead to a disproportionate obstacles to the exercise of the right to judicial protection. In this context, it seems advisable to take into account the experience of the countries of the Anglo-American legal system, since the implementation of a three-part test for determining whether claims are identical (identity of parties, subject matter and grounds of dispute) at the national level does not prevent individuals from filing claims that are not formally identical, but are aimed at circumventing the final judgment in the previous case.

The analysis of the abovementioned cases gives rise to the conclusion that the following criteria may be used to deduce that the right to file a claim has been abused in order to relitigate the issues, which had already been adjudicated upon in previous proceedings: a) whether the parties to the previous and subsequent proceedings are identical; b) whether the claims of the parties to the previous and subsequent proceedings are duplicative in nature; c) whether the review of the case serves the public interest.

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GLOBALIZATION AND ITS IMPACT ON THE NATIONAL LEGAL SYSTEM: PROBLEMS AND PROSPECTS

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The development and evolution of society indicate that globalization principles have ancient roots, as such trends were familiar to primitive societies and were based on mythological and religious beliefs. There is no single, universal definition of globalization in the scientific literature and modern legislation; it is a floating and empty term. Malcolm Waters believes that the terms "globalize", "globalization" and "globalization" have been used since the 1960s. However, it is generally accepted among scholars that the term "globalization" was coined in 1983 by the American T. Levitt (in an article in the Harvard Business Review), who used this neologism to describe the process of merging markets for certain products produced by transnational corporations (TNCs). A significant step towards the universalization of globalist ideas was the establishment in the twentieth century of international and regional political, economic, and humanitarian organizations and institutions aimed at implementing the concept of world law and order and achieving universal peace, such as the League of Nations (1919-1939), and after World War II - the United Nations (1945). Moreover, as defined by the International Monetary Fund, globalization is "the increasingly intensive integration of both goods and services and capital markets". It is worth agreeing with the opinion of R.F. Khabirov that the origins of globalization processes are ancient since the interdependence of states has been traced throughout almost the entire history of

mankind, but globalization is a phenomenon of the XX century. Therefore, globalization has ebbed and flowed throughout history, with periods of expansion and retrenchment.

An example of the impact of globalization on national legal systems is the adoption of the Convention for the Protection of Human Rights and Fundamental Freedoms by 10 member states of the Council of Europe in Rome on 4 November 1950 and the establishment of the European Court of Human Rights under the Convention of 21 January 1959. The ratification of the European Convention allows all persons under its jurisdiction to file a lawsuit with the European Court if they believe that their rights have been violated. This also applies to Ukrainian citizens, as confirmed by Article 55 of the Constitution of Ukraine. The case law of the European Court of Human Rights and the work of the European human rights protection system have left their mark on approaches to solving urgent problems of society. Thus, the positive impact of globalization on the legal system of a state whose members are citizens who are actively involved in shaping the legal culture is obvious.

Of course, the impact of globalization on legal thought has, so far, been more limited. That has various reasons. The first reason is that globalization, although (or perhaps because) it is generally accepted as the new paradigm of society, has remained a remarkably vague concept in general discourse. A second reason is that legal thought has so far reacted to globalization not with a true paradigm shift but instead by more and more inept attempts to adapt the methodological nationalism that has provided its paradigm for the last two hundred years or so. A third reason, finally, is that globalization poses interdisciplinary challenges, and interdisciplinarity in law and globalization is still surprisingly lacking. On the one hand, many of the conceptual and theoretical discussions of globalization ignore or downplay the law as an important factor (beyond an occasional nod to international law). A widespread understanding of globalization distinguishes three aspects: economics, culture, and politics. Law, in words, is absent. In legal thinking, on the other hand, globalization is often either purely absent (where discussions are purely doctrinal) or appears as a simple idea of internationalization that somehow influences the law. Legal theory and doctrine have,

until recently, often operated with oversimplified concepts of globalization. But the reality of globalization challenges such formulations. Law has an important role to play, particularly in contexts in which economic activity generates human rights questions, such as child labor (de Feyter and Gomez Isa, 2005; Hallo de Wolf, 2011; International Labour Organization, 1999; Roe v. Bridgestone, 2007). Globalization includes global and regional institutions such as the WTO and the European Union, but globalization is embedded in our institutions – domestic and international, public and private, by virtue of legal arrangements (legislation, agency regulations, contracts, etc.) that draw global 'forces' into everyday life, and vice versa

Globalization is a longstanding trend that is in the process of changing and possibly slowing, which has brought much advancement in various fields, including law. It has been a major factor in the development and evolution of national legal systems across the world, causing changes in legislation, legal procedures, and the practice of their application. Besides, national legal systems are distinctive in that they are developed and applied within a particular country, taking into account its historical, cultural, and political characteristics. The interaction between globalization and the national legal system can have both positive and negative effects. On the positive side, globalization can contribute to the creation of generally accepted standards of law by global institutions, such as the International Criminal Court, which can provide an additional level of human rights protection and fight against corruption. Furthermore, globalization creates opportunities for international cooperation, investment, and increased economic efficiency and technological development, and can contribute to.

However, it has also brought some negative impacts on a law that cannot be ignored. The integration of legal systems and the emergence of global legal standards have led to the homogenization of legal practices, which has reduced the autonomy of national legal systems. This means that countries are forced to conform to global legal standards, which may not align with their cultural or political values. In some cases, this has led to a loss of trust and legitimacy in the legal system, as people feel that their national identity and sovereignty are being undermined. Another negative impact of globalization on law is the rise of transnational corporations and their influence on legal

systems. They can influence lawmakers and legal institutions to create laws that favor their interests and protect their profits, even if it means compromising on ethical and moral standards.

Globalization affects the development of national legal systems, which may face various challenges. One of the main challenges is to ensure human rights, it can lead to their violation due to uneven distribution of resources, in particular natural resources, as well as lower social standards in certain countries. Another problem is the fight against corruption. Globalization can increase corruption risks, as international businesses can sometimes benefit from unfair practices or lack of control. Globalization also creates problems in the area of intellectual property protection.

Globalization has also created new challenges for law and justice, as the movement of people and goods across borders has led to an increase in transnational crime and the need for greater cross-border cooperation. The issues of legal globalization are complex, which should be taken into account when developing the concept of the State's legal policy of both internal and external orientation. There are several tools that can be used to address the challenges posed by globalization and the national legal system. First, it is the development of global law, which contains universally recognized principles and norms that apply in all countries. The development of global law can contribute to the unification of norms and principles governing the global economy, politics, and cultural relations. However, the creation of global law is not an easy task, as there are questions about its relationship to national legal systems and the lack of mechanisms to monitor and enforce it. Secondly, the development of mechanisms for interaction between international law and national legal systems can contribute to the improvement of human rights protection and the fight against corruption. Thirdly, civil society participation. Plus, the development of technologies such as blockchain and artificial intelligence can help to increase the efficiency and transparency of legal processes.

Globalization is a controversial phenomenon that affects many areas of society, including the national legal system. Although it can cause a number of problems, it can also be seen as an opportunity to improve legal systems and adapt them to modern challenges. One of the promising areas of development of the national legal system is to

ensure its compliance with global standards. This can be done by developing national laws and regulations that comply with international documents and conventions that ensure the protection of human rights, the fight against corruption, the protection of intellectual property, and other important aspects. In addition, consideration could be given to creating global norms and principles that would be universally recognized and applied in all countries.

In conclusion, the changes in the world's political economy generally known under the rubric of globalization are fundamentally and simultaneously both structural and political in nature. Globalization is an integral part of the modern world, and national legal systems must adapt to new conditions and ensure an adequate level of protection of the rights and interests of their citizens in the context of global challenges. Therefore, there is a need to focus on finding compromises and cooperation between national legal systems and global legal structures to ensure the effective protection of human rights and the interests of society as a whole. The more countries and regions of the world become intertwined politically, culturally, and economically, the more globalized the world becomes.

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THE ROLE OF CONSTITUTIONAL CONTROL BODIES IN THE HARMONIZATION OF NATIONAL LEGISLATION WITH EUROPEAN UNION LAW

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Ukraine has long been irreversibly on the path to European integration. In particular, this goal was also enshrined at the level of the Constitution of Ukraine, which states the European identity of the Ukrainian people and the irreversibility of Ukraine's European and Euro-Atlantic course. And already in 2022, it acquired the status of a candidate for membership of the European Union.

One of the conditions for the accession of any country to the European Union is the harmonization of national legislation with EU law. This is also indicated by the Court of Justice of the European Union, according to whose practice the obligation to respect the values recognized in the European Union and in the Treaty on European Union, and in particular the rule of law, is not only one of the conditions for acquiring the status of a participating country of the European Union for any country in Europe that wishes to acquire such membership - but also as a condition for its preservation (Court of Justice of the European Union, 2022).

The experience of the accession of other European countries to the European Union indicates that one of the key roles in the process of such harmonization is played by national bodies of judicial constitutional control, and in particular, constitutional courts.

Poland can be mentioned as an example. The process of harmonization and adaptation of national legislation with the law of the European Union began in this country long before its entry into the Union. The Constitutional Tribunal of Poland

played an important role in this process even then - in 1997, when Poland was not a member of the EU, the Constitutional Tribunal of Poland noted that the accession of Poland to the European Union required the harmonization of national laws with EU law. Therefore, if the national law contradicted the laws of the European Union, it could be recognized as unconstitutional, because it made it impossible to achieve the goal chosen by Poland in the form of acquiring the status of a full member of the European Union (Constitutional Tribunal of the Republic of Poland, 1997).

But with the accession of the country to the European Union, the participation of constitutional courts in the process of rapprochement between the national and European legal systems does not stop.

The main judicial instance of the European Union is the Court of Justice of the European Union. Its task is to provide an assessment of the compliance of national laws of EU member states with EU legislation. This Court carries out such an examination at the request of national courts, including constitutional courts.

The judge of the Court of Justice of the European Union, Egidijus Jarašiūnas, points out that constitutional courts do not often refer to the Court of Justice of the European Union. However, since 1997, cooperation between these courts has been increasing, and to date the Court of Justice of the European Union has already passed more than 30 decisions on appeals from the constitutional courts of the member states of the European Union (Egidijus Jarašiūnas, 2016, p.224-228). In this way, the two-way cooperation of these courts is ensured: the constitutional courts influence the Court of Justice of the European Union, and it influences the constitutional courts.

Such adaptation and harmonization of national legislation to EU law is also carried out by constitutional courts on their own initiative by means of "European-conform interpretation". This means that national legislation should be interpreted in a way that is as compatible as possible with European Union law (Pleskach V.Y., 2022).

A good example of this is the decision of the Supreme Court of Estonia dated 15.03.2022, which states that EU member states must ensure the full effect of EU law. Therefore, national law, including the Constitution, must be interpreted, to the greatest extent possible, in conformity with EU law. If a provision of national law is contrary to

a provision of EU law having direct effect, the national court must disapply the national provision, i.e. in the event of collision EU law enjoys primacy over national law. Thus, the principle of primacy of EU law applies to the entirety of Estonian national law, including the Constitution, but only insofar as this is not contrary to fundamental constitutional principles (Supreme Court of the Republic of Estonia, 2022).

Thus, one of the challenges for Ukrainian legal science in the field of constitutional law is the preparation of Ukraine for harmonious accession to the legal system of the European Union. We are used to the fact that in Ukraine the last word in a legal dispute always rests with the Supreme Court or the Constitutional Court. However, after the future accession to the European Union, we will also need to take into account the positions of the Court of Justice of the European Union and the requirements of EU law.

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GENERIC OBJECT OF COERCION TO TESTIFY (ARTICLE 373 OF THE CRIMINAL CODE OF UKRAINE)

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The science of criminal law defines the object of the crime as its mandatory element. The need to clearly define the object of a specific criminal offense is important for the correct application of the article of the Criminal Code in the process of bringing a person to justice. Within the framework of the section that establishes criminal offenses against justice, a crime is distinguished, the responsibility for which is imposed by coercion to testify (Article 373 of the Criminal Code of Ukraine).

Many domestic scientists were engaged in the study of the essence of social relations that arise during the administration of justice, including: V.I. Borisov, O.O. Vakulyk, A.V. Vorontsov, V.I. Tyutyugin, M.V. Shepitko etc.

In modern scientific literature, approaches to defining the concept of "justice" are quite diverse.

Borisov and Tyutyugin (2011) define the narrow and broad meaning of the concept of justice. In a broad sense, by justice, they understand "not only the specific activity of the court in considering the above-mentioned cases, but also the activity of bodies and institutions that assist it in this: bodies of inquiry, pre-trial investigation, prosecutor's office, institutions that implement court decisions that have entered into force , as well as the activities of individual persons authorized by law to participate in court proceedings - defense attorneys, representatives of a person providing legal assistance, court experts, etc. This understanding of justice is conditioned by the fact that without the functioning of the named bodies and institutions and the activities of persons authorized to participate in the judicial proceedings, the administration of justice by the court would be practically impossible" (p. 7).

In the same way, Shepitko (2015) notes in his research that "the concept of "justice" in the current legislation on criminal liability must be understood in its "broad"

interpretation. The mentioned concept should cover not only the activity of the court in the consideration and resolution of cases, but also the activity of the bodies of pre-trial investigation, inquiry, as well as the bodies of execution of court decisions (p. 128-129).

The division into narrow and broad meaning of justice is also suggested by Vakulyk (2018). She notes that "in a broad sense, justice is the normal (legal) activity of justice bodies, which include bodies that contribute to the administration of justice (investigative bodies, prosecutor's offices, bodies entrusted with the duty of executing court decisions)" (p. 186).

According to Vorontsov (2015) "justice" in a broad sense is the activity of not only the court, but also those bodies that assist the court in the implementation of tasks and functions assigned to justice" (p. 31).

Article 124 of the Constitution of Ukraine establishes that justice in Ukraine is administered exclusively by courts. At the same time, the "Judiciary" section of the Constitution of Ukraine defines the entities that participate in the implementation of justice in Ukraine: the Prosecutor's Office (Article 1311 of the Constitution of Ukraine) and the Bar (Article 1312 of the Constitution of Ukraine).

Taking into account the fact that Chapter XVIII of the Criminal Code of Ukraine (criminal offenses against justice) provides for criminal misdemeanors and crimes that encroach on the scope of starting a pre-trial investigation, on proof (collection of evidence), and on the execution of a court decision, it is logical to maintain the specified above the approaches of scientists to the understanding of the concept of "justice" in its broad sense. Therefore, social relations that arise during the implementation of such justice and are the generic object of the crime provided for in Art. 373 of the Criminal Code of Ukraine.

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NEUTRALITY IN THE CONTEXT OF THE DEVELOPMENT OF UKRAINE

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The development of each state is directly related to its security. The international order has developed in such a way that any state must make a choice between being neutral in external conflicts and joining a military alliance and choosing the path of collective security. Both of these approaches have both positive and negative examples in history and the present, but the analysis of both makes it possible to understand, or at least come close to understanding, which option will be better for Ukraine.

Even now, the world can observe a conditional distribution of states. A clear example of neutral states is Austria or Switzerland. In contrast, there are simultaneously military and defense alliances, such as the North Atlantic Treaty Organization (NATO), the Collective Security Treaty Organization (CSTO), or bilateral alliances, such as between Israel and the United States or Afghanistan and the United States as part of an alliance outside NATO.

Until 2014, Ukraine was actually a neutral state as well. Thus, in accordance with Section 9 "External and Internal Security" of the Declaration on State Sovereignty of Ukraine dated 16.07.1990, the Ukrainian SSR solemnly declares its intention to become a permanently neutral state in the future, which does not participate in military blocs and adheres to three non-nuclear principles: no to accept, not to produce and not to acquire nuclear weapons.

Already with the changes to the Basic Law of February 21, 2019, Ukraine began a new course towards collective security:

Article 116 of the Constitution of Ukraine stipulates that the Cabinet of Ministers of Ukraine ensures the implementation of the state's strategic course for the acquisition of full membership of Ukraine in the European Union and the North Atlantic Treaty Organization;

Article 85 of the Constitution of Ukraine defines that the powers of the Verkhovna Rada of Ukraine include determining the principles of domestic and foreign policy, implementing the state's strategic course for Ukraine's full membership in the European Union and the North Atlantic Treaty Organization.

However, it should be noted that the effectiveness of the choice of neutrality or collective security is individual for each state. Thus, neutral Austria and Switzerland are surrounded by NATO member states that do not pose any threat to the security of both, and Ukraine and Israel share a common border with aggressor states that have been carrying out armed attacks and trying to start new wars for many years.

The relevance of the comparison of neutrality and collective security lies in the fact that these concepts begin with the creation of the first states, law and international relations and develop and change every decade throughout history. The main reason for their constant change lies not only in the fact that law and international relations develop, but also in the fact that war and the approach to it also undergo significant changes every decade and century. In particular, if a little more than a hundred years ago, wars were fought relatively openly as an opportunity for the faster capture of one state by another, then today's war may have signs of a hybrid war or a constantly "smoldering" conflict.

Although the concept of neutrality has opposite meanings, they were formalized at the same time, namely from the time when international law began to operate, it, in turn, began immediately when the state emerged. As G.S. Igoshkin rightly points out: "... the development (of international law) directly depends on the content and nature of the internal and external policies of states, on international politics, international relations."

Neutrality as a concept in international law was born at the end of the 15th century, at the time when exploration of unknown, at that time, lands by sea routes began. However, as a social phenomenon it has been with humanity throughout its existence. At a time when one group of people, armed with self-made equipment, attacked another, and the third was aloof from the conflict of the first two - this was the beginning of neutrality.

The institution of neutrality evolved at the same time as mankind waged wars. If at first neutrality was a custom in international law, then the regulation of state neutrality was fixed on paper.

In order to avoid armed conflicts, in 1494 Portugal and Spain concluded the Treaty of Tordesillas (the Treaty of Zaragoza expanded the provisions in 1529), which provided for the distribution of spheres of influence at sea outside the borders of Europe. This treaty was the reason that at the end of the 15th century and throughout the 16th century, the active discovery of "new lands" by famous explorers such as Christopher Columbus or Vasco da Gama began, and then the world came to understand that the sea is as important as the land, since the oceans became new highways for merchant ships, and they, in turn, paid large taxes to the budget of the then leading maritime states, and then the question arose of both the status of water connections and the rules for their use.

Leos Müller aptly outlines this problem: "The question concerned the domestic or international status of waterways controlled by ships and this was crucial for understanding the neutrality of ships and the use of neutral flags. Is a foreign ship sailing in the high seas? If so, international rules, the law of nations and bilateral treaties should apply. Is a foreign vessel sailing in territorial ("closed") waters? If so, then the sovereign state must decide its fate in accordance with the legislation of that state." That is, already in the 15th and 16th centuries, the concept of neutrality at sea and the methods of its expression, through the use of the appropriate flag, developed.

At the same time, it is necessary to mention the principle of the free sea of Hugo Grotius, which is described in his work "Freedom of the Sea" (orig. Mare Liberum).

This principle solved the problem of free navigation, the status of international waters and the neutrality of trade.

After the Russian Federation launched a full-scale war against Ukraine, the question of the latter's neutrality is no longer on the agenda. Ukrainian society is now on the same side as the Ukrainian government regarding the chosen path to collective security and the earliest possible accession of Ukraine to NATO.

At the same time, if Ukraine had chosen neutrality as a state concept since 2014, then throughout this period until February 24, 2022, Western weapons would not be supplied to Ukraine, which would significantly complicate resistance against the Russian Federation.

Based on today's realities, it is safe to say that neutrality limits Ukraine more than it would benefit. On the contrary, collective security opens new doors to Western weapons, values, standards, and technologies, which significantly increases the security of Ukraine.

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REGULATION OF THE PROCEDURE OF EXEMPTION OF A PERSON FROM CRIMINAL LIABILITY IN ACCORDANCE WITH THE CRIMINAL PROCEDURE LEGISLATION OF UKRAINE

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Due to the first paragragh of the Resolution of the Plenum of the Supreme Court of Ukraine from 23.12.2005 № 12 "About the practice of an application by the courts of Ukraine of the legislation of an exemption from the criminal liability" (next - the resolution) defines an exemption from the criminal liability as a refusal of the state to apply to a person, who has committed a crime, restrictions on certain rights and freedoms, established by law, by closing a criminal case, which is carried out by a court in cases provided for by the Criminal Code of Ukraine in accordance with the procedure established by the Criminal Procedure Code of Ukraine (About the practice of an application by the courts of Ukraine of the the legislation of exemption from criminal liability, 2005).

In the above listed definition of an exemption from criminal liability, which is provided in the Resolution, a significant is that the releasing of a person from the criminal liability is carried out in accordance with the procedure established by the Criminal Procedure Code of Ukraine (About the practice of an application by the courts of Ukraine of the the legislation of exemption from criminal liability, 2005).

Thus, there are two established normative legal acts, that regulate the institute of the exemption of a person from the criminal liability: Criminal Procedure Code of Ukraine and Criminal Code of Ukraine.

An exemption from the criminal liability is possible only if there are conditions provided for in the articles of the Criminal Code of Ukraine, which together form the basis of the corresponding type of the exemption. At the same time, a mandatory prerequisite for the application of any type of an exemption is a reliably established fact that a person has committed a crime. It cannot be considered as an exemption from the

criminal liability for not bringing a person to it due to the lack of grounds for its application (the insanity, the voluntary refusal, etc.).

A prerequisite for the releasing of a person from the criminal liability is the commission of a certain crime by him, because, obviously, releasing from liability is possible only if there is a basis for such liability.

There are three such characteristics of the releasing of a person from criminal responsibility: a guilty verdict is not passed on him; the person is not punished;the person does not receive a criminal record.

According to Part 1 of Art. 44 of the Criminal Code of Ukraine, a person who has committed a criminal offense is released from criminal liability in the cases provided for by this Code (Criminal Code: Law of Ukraine, 2001).

In effect, the law provides five types of releasing from the criminal liability:

1. an active remorse (Article 45 of the Criminal Code of Ukraine);

2. reconciling of the guilty person with the victim (Article 46 of the Criminal Code of Ukraine);

3. transfering of a person to the guarantee (Article 47 of the Criminal Code of Ukraine);

4. changing the situation (Article 48 of the Criminal Code of Ukraine);

5. an end of a limitation period (Article 49 of the Criminal Code of Ukraine) (Criminal Code: Law of Ukraine, 2001).

It is noticable that the grounds for general types of an exemption from the criminal liability include:

1) the commission of a crime for the first time, that is, not only in the case of the actual commission of a crime for the first time, but also again after the expiration of the statute of limitations or after the repayment or removal of a criminal record for a previously committed crime;

2) committed crime, according to the requirements of Art. 45-46, should be a minor crime or a negligent crime of medium severity, and according to the requirements of Art. 47-48 — light or medium severity.

For each type of exemption from criminal liability, the corresponding article specifies the conditions for such exemption.

At the same time, the Criminal Code of Ukraine provides for the establishment in some articles of exemption from criminal liability on special grounds and cases regarding a specific criminal offense, as an example, Part 2 of Art. 114, Criminal Code of Ukraine.

Common features to these types is that a person who has committed a crime is, on the grounds provided for in the law, exempted from serving a sentence, from certain restrictions established by the criminal law for that crime.

Procedure for releasing of a person from criminal liability is regulated by the 286 Article of Criminal Procedure Code of Ukraine. Firstly, an exemption from criminal liability for the commission of a criminal offense shall be carried out by the court. In fact, having established grounds for exemption from criminal responsibility at the pre-trial investigation stage and having received the suspect's consent to such exemption, the prosecutor prepares a petition for exemption from criminal responsibility and sends it to the court without conducting a pre-trial investigation in its entirety. Before sending the petition to the court, the prosecutor is obliged to familiarize the victim with it and find out his opinion about the possibility of releasing the suspect from criminal liability. If, during the course of a court proceeding regarding a proceeding that has been submitted to the court with an indictment, a party to the criminal proceeding applies to the court with a request to release the accused from criminal liability, the court must immediately consider such a request (Criminal Procedure Code: Law of Ukraine, 2010).

In conclusion, the signs of exemption from criminal liability are:

a) the absence of an official conviction of a person by the state in the form of a guilty verdict of a court;

b) an official refusal to apply to the person who committed the crime, encumbrances of a criminal law nature;

c) the termination of all criminal law relations between the state and the released person.

Consequently, an exemption from the criminal liability is the refusal of the state to officially condemn the person who committed the crime, in the form of a guilty verdict of the court and the application of burdens of a criminal legal nature in connection with the legal facts provided for in the Criminal Code of Ukraine, entails the termination of the entire complex of criminal legal relations.

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LEGAL ISSUES OF DOUBLE TAXATION OF UKRAININAN REFUGEES IN GERMANY

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The full-scale military invasion of Russian troops into Ukraine changed all aspects of people's lives. The questions of where to live and where to work became the most essential ones. Millions of Ukrainians were forced to look for a new place to live somewhere in Europe and in Germany in particular.

According to the official information from Federal Office of Statistic (Statistisches Bundesamt) as of November 30, 2022, 1,035,000 Ukrainian citizens were living in Germany, almost seven times as many as at the end of February 2022 (*Gesellschaft*,

n.d.). According to the Federal Employment Agency (Bundesagentur für Arbeit), around 150,000 Ukrainians found a job and were paying taxes as well as other social contributions in November 2022 (*Ukrainische Geflüchtete Auf Dem Arbeitsmarkt | Bundesregierung*, n.d.). Germany is one of the countries, which offered a high level of humanitarian aid, housing, and social benefits to Ukrainian refugees. However, the question of which country is now entitled to deduct taxes of the foreign incomes remains unclear.

Everyone must pay taxes. The obligation to pay taxes in the state of permanent residence arises even without acquiring the citizenship of a foreign country or obtaining any other status there. If a person moved to Germany, for example, it is very possible for him/her to become a tax resident of Germany even without obtaining citizenship here. Therefore, the person may be obligated to pay taxes in Germany even from income received in Ukraine, from which taxes have already been paid to the Ukrainian budget.

Generally, tax residency in Germany is the status of a person who permanently lives (more than 183 days) or has an accommodation in this country, which implies the obligation to pay taxes on all types of income (including the ones earned in Ukraine) in Germany. It means, that Ukrainian refugees abroad, who obtained the status of a tax resident in Germany, must pay taxes to local budgets, even if these taxes have already been paid in Ukraine. There exist also some criteria of defining the tax residency in Germany like for example the center of a person's economic and family interests or citizenship. These criteria are used in cases when a person has accommodations in both Ukraine and Germany or stays in both countries equally long.

Ukrainian residents pay 18% personal income tax and 1.5% military tax from the salary to the state and local budgets. In addition, the employer pays 22% of the social security tax. In Germany tax residents must pay much higher taxes, their amount can exceed half of the income. Germany is however also famous for its progressive tax system: the lower the income, the lower the tax rate. Nevertheless, the highest personal income tax rate in Germany can reach up to 47,5% (*Germany - Individual - Taxes on*

Personal Income, n.d). Ignoring of the demands of the tax office to pay taxes in Germany can further lead to high penalties or even criminal liability.

Ukrainians-tax residents in Germany, after one year (tax period for which taxes must be paid) can get from the local tax authority a claim for repayment of the tax debt. It means, that Ukrainians who have got the status of tax residents of Germany in 2022 can get a financial claim only now, in 2023. It may surprise many of Ukrainian refugees, who do not relate themselves with German taxpayers even though formally they are already one of them.

However, it is important to remember, that German tax authorities still have few ways to find out about Ukrainians' taxable income. Especially when the source of these incomes are salaries from Ukrainian employers, which are deposited into accounts in Ukrainian banks. Incomes about which German tax officials will definitely have full information and on which taxes will be calculated, as a rule, include incomes from the sale of property by Ukrainians in Germany.

Nevertheless, it is important to consider the fact, that on August 19, 2022, Ukraine joined the multilateral agreement on the automatic exchange of tax information. This event presents the future state actions in the directions of two international standards' implementation in Ukraine: Common Standard on Reporting and Due Diligence for Financial Account Information (CRS) and standard on exchange of information on request (EOIR). As of January 2023, more than 110 jurisdictions are participating in the international multilateral automatic exchange of financial account information, including all member states of the European Union. Germany joined the international project in 2017.

CRS requires implementing countries to automatically collect financial data from financial institutions and to share such information annually with partner jurisdictions. In particular, the CRS obliges financial institutions of participating countries to check accounts and their owners and identify tax residents of other partner countries.

In order for the CRS to work, the Ukrainian government and the Parliament still need to finish the implementation of a number of documents in this area, which will take some time. However, when the law is fully operational, Ukrainian financial

institutions will automatically exchange information with foreign ones about open accounts and their owners.

Currently a Ukrainian person can open an account in Germany this information will not be available for local tax bodies in Ukraine. But, after this standard of exchange of information about accounts is fully operational in Ukraine, information about accounts abroad and foreign incomes or/and/assets will appear in the Ukrainian tax office.

One also needs to pay attention to the Agreement between the Federal Republic of Germany and Ukraine to avoid double taxation in the area of taxes on income and wealth from 04.10.1996. Ukrainian and German governments have already created a tax regulation background in order to avoid the double taxation. However, the war in Ukraine raises many questions, which are not currently adjusted to new reality. Moreover, the CRS-Project will also make its amendments into interstate cooperation.

In conclusion, the Ukrainian authorities did not forget about Ukrainian citizens abroad including the ones, who live and work in Germany, who are at risk of double income taxation. There exist the rules which regulate the questions of double taxations. However, the current principle sets a huge burden on people's shoulders, as many of the Ukrainian refugees are willing to come back home and work further in Ukraine. One of the ways to solve the current situation could be the official refusal of local tax authorities in Germany to recognize Ukrainian citizens as its tax residents when they were forced to stay in the country for more than 183 days. However, there is currently no tangible progress in solving this problem.

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INTERPRETATION OF "FAVORABLE CONSERVATION STATUS" OF PREDATORS IN EUROPEAN WILDLIFE LAW

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The issue of ensuring protection of large carnivores requires detailed scientific research, including the study from a legal point of view. The interpretation of the concept of "favorable conservation status" (FCS) for predators often causes a conflict between public and private interests.

The conservation status of predators in accordance with Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) aims to achieve a "favorable conservation status" (FCS). On the basis of the conducted analysis, conclusions were made about the absence of a single criterion for the conceptual and terminological apparatus of this definition in different European countries.

So, Article 1 (e) of Habitats Directive states that the conservation status will be considered "favorable" if: the population dynamics data on the species concerned

indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis. However, the implementation of the legal status by the Member States has not been flawless, in particular due to delayed or incorrect transposition of the Directive into the national law, insufficient law enforcement at the national level - for example, regarding the illegal extermination of species protected under the Directives, as well as due to confusion regarding interpretation of the criteria of "favorable conservation status" (FCS) which are listed in the above-mentioned Article of Habitats Directive (Trouwborst, 2014).

We believe that the above mentioned criteria of "favorable conservation status" (FCS) are debatable from the natural and legal points of view. On the one hand, these criteria deserve support, because they are quite flexible, set minimum protection standards and allow states to take into account their national characteristics when implementing the Directive. On the other hand, the disadvantage of these criteria consists in granting a wide freedom to states, which leads to their abuse of their rights. Therefore, it is necessary to improve the definition of clear criteria of "favorable conservation status" (FCS) for preservation of the entire biodiversity in the member states of the EU.

Unfortunately, based on the implementation practice of some countries, we can see that the established legal status does not contribute to observance of favorable "conservation status" (FCS) of predators, due to the applied criteria that were established by the states during their ratification of the Bern Convention and the Habitats Directive. Such countries as Norway, Spain, Sweden and Finland typically fail to comply with their international legal obligations, and the measures that can be taken to guarantee the "favorable conservation status" (FCS) of predators are increasingly often left in doubt by them.

For example, non-compliance with the "favorable conservation status" (FCS) of predators can be proven by a case in the south of Spain, where the Ministry of

Ecological Transition and Demographic Challenge of Spain witnessed extinction of the wolf in its protected areas in the Sierra Morena (Castillo, 2021). Another example is the case regarding conservation and management of wolves in Finland, where the Court of Justice of the European Union also determined that at the time of the dispute the wolf conservation status in Finland was unfavorable (CJEU June 14, 2007, case C-342/05).

Such a problem needs to be immediately solved by means of making positive commitments by the member states regarding the comprehensive selection of protection measures, which must correspond and correlate with the EU law. It should be noted that, taking into account migration of most predators, this issue also requires enhanced cross-border coordination.

It should be agreed that member states have individual obligations to form FCS of those populations within or partially within their borders, as well as in each of its biogeographical regions (Trouwborst et al., 2017).

The Standing Committee of the Bern Convention being the main decision-making body of the Convention with all parties represented in it also called on the contracting parties to the Convention to strengthen cooperation with neighboring states with a view to adopting a coherent policy for management of shared populations of large carnivores, taking into account the best experience in the management of populations of large carnivores, with clear reference to EU Carnivore Guidelines (Recommendation No. 137 (2008).(Trouwborst, 2014)

Therefore, finding out the main criteria of “favorable conservation status” (FCS) for predators is an extremely difficult task. Taking into account peculiarities of populations in each EU country, special legislation must be adopted with mandatory consideration of Recommendation No. 137 and the EU practice. At the same time, the fundamental concept of conservation should consist in reduced pressure on habitats and species, ensuring sustainable use of all ecosystems, preventing negative effects on the landscape and biodiversity as well as in reducing environmental risks and strengthening international cooperation.

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LEGAL BASIS FOR LIMITING THE VETO RIGHT OF THE UN SECURITY COUNCIL

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"*True peace is not just the absence of tension, it is the presence of justice*", - Martin Luther King said. Today, the world is faced with a global threat to world peace and security. When studying the issue of international security, one cannot ignore the role of the United Nations (hereinafter the UN) and the Security Council (hereinafter the SC), as the body that bears the main responsibility for maintaining international peace and security (Article 24 of the UN Charter). Thus, it is generally known that the UN Charter imposes on the SC the duty to maintain international peace and security, timely prevention of crisis situations, as well as a prompt and effective response to illegal actions of subjects of international law that threaten peace and security in the world. The problem of the effective functioning of the SC has existed for a long time, and is

not a new one; representatives of member states within the UN, leaders of countries, and even Secretaries General have repeatedly emphasized the inaction of the SC in the conditions of emerging and ongoing conflicts. The main reason remains the directly unforeseen right to veto of a permanent member of the SC. In fact, Clause 3 of Article 27 of the UN Charter enshrines the absolute veto right of a permanent member of the UN Security Council. This article provides that in voting on all matters, except procedural ones, the decision can be adopted in the case of an affirmative vote of nine members, including the concurring votes of all permanent members of the UN Security Council. As a result of the formation of two ideological camps in the SC and the growing hostility between them a real threat to the maintenance of peaceful coexistence between states is created. Given the direct abuse by the permanent members of the Security Council of the right granted by the Charter, the question arises: "*Does the legal nature of the right of veto correspond to the fundamental principles on which the UN was built, namely to ensure the effective functioning of the legal mechanism to maintain peace and security, or does this right have purely a political component?*" and "*Is a "compromise" likely in the matter of harmonizing the political will of the great powers, which would be able to leave the solution of this issue within the legal regulation?*".

The United Nations (UN) is a universal international organization created for the purpose of maintaining international peace and security and developing cooperation between states. The UN Charter is a general multilateral international treaty that is binding on all states. As noted by A. V. Voytsikhovskyi (2020), the UN Charter is quite rightly called the Charter of modern international law, since it laid the foundation of the modern international legal order, established basic international legal principles and determined the norms of behavior of states and other subjects of international law on the world stage (Voitsikhovskyi A.V., 2020).

Article 24 of the UN Charter follows that, in order to ensure the prompt and effective actions of the UN, its Members hold the SC with the main responsibility for maintaining international peace and security and agree that in the performance of its duties arising from this responsibility, the SC acts on their behalf.

As Sudak I.I. (2020) noted the use of the veto or the threat of the use of the veto is the main reason why the Security Council becomes powerless in international conflicts and crises. The influence of the veto now goes beyond what was stipulated in the Charter of the United Nations, affecting the effectiveness and credibility of the UNSC. At a 2010 Security Council meeting, the representative of Venezuela called the Security Council a "prisoner of the veto power," calling for the elimination of the veto. During Argentina's presidency of the UN SC in August 2013, Argentine President Cristina Fernández criticized the veto power of the five permanent members, arguing that it was a precautionary measure during the Cold War to prevent a nuclear disaster, but it was now impossible to resolve problems of the modern world with outdated means and methods.

Sudak I.I. (2020) emphasizes that the activities of the SC on the maintenance of international peace and security were and remain ineffective, in particular in Somalia, Bosnia (1995), Rwanda (1994), Kosovo (1999), Iraq (2003), Georgia (2008), Crimea (2014), Syria, Yemen and Ukraine (2022). In this regard, in 2009, about 140 Member states recognized that reforming the SC was necessary and called for negotiations to carry out the reform. The issue of the veto right remained the most controversial and most discussed, during the drafting of the UN Charter (I.I. Sudak, 2020).

Thus, on February 26, 2022, the Russian Federation blocked the United Nations resolution condemning the Russian military attack on Ukraine. Before the vote, US permanent representative to the UN Linda Thomas-Greenfield spoke, who stated that Russia violates the UN Charter and called for the adoption of a resolution condemning the Russian Federation. The UK permanent representative, Barbara Woodward, noted that only "the party with the veto right, which itself carries out this conflict voted against the resolution" (Matyash T., 2022).

Therefore, a situation arises as a result of which the provision of the Charter, which provides for the veto right, is actively applied, but it is applied contrary to the principles established by Article 2 of the Charter. Therefore, there is a need to study the issue of the hierarchy of norms of international law in order to further determine the expediency of such application and the validity of the norm of the veto right proclaimed

by the Charter, in particular, in view of the imperative norms of general international law (jus cogens) their status and place in this hierarchy, as a decisive component for the validity of norms established by treaties within the framework of international law.

Hélène Ruiz Fabri and Edoardo Stoppioni (2021) have pointed out that jus cogens theory provides for fundamental principles that are absolute and therefore non-derogate. The concept of jus cogens — which in its essence is the basis of norms of a constitutional nature, including the principle of the prohibition of aggression or the prohibition of slavery, genocide and piracy — was at the very heart of the declarations of non-aligned and socialist states during decolonization, especially during the negotiations of the Vienna Convention on the Law of International Treaties in 1968–69, which witnessed a whole range of opinions on jus cogens (Hélène Ruiz Fabri & Edoardo Stoppioni, 2021).

As Ştefan Mołăłăianu notes in his article "The hierarchy of the norms in the international law system", the adoption of the Vienna Convention on the Law of International Treaties in 1969 represented an accomplished goal in the development of international law. The importance of this Convention is more emphasized if we examine the historical context in which the two drafts were prepared by the International Law Commission and the negotiations at the Vienna Conference. Delegates from some states that belonged to antagonistic socio-political systems managed to go beyond the specified different positions and developed a legal regime for the most important source of international law - a treaty - a document that has a fundamental role in the implementation of international relations.

Ştefan Mołăłăianu (2009) points out that the consolidation of the concept of peremptory norms of general international law, defined in Article 53 of the Convention, is not the result of momentary inspiration and is not the result of the influence of short-term factors in the process of promoting the interests of a particular member of the international community. The concept of peremptory norms has undergone a period of evolution in international law. Its development is supported by both the doctrine and the practice of subjects of international law. The concept of peremptory norms of general international law does not contradict the equality between the main sources of

international law, as they are enshrined in clause 1 of Article 38 of the Charter of the International Court of Justice of the UN, but without excluding the possibility of establishing a hierarchy between different categories of norms of international law. Thus, all norms of international law are divided into types from the point of view of their legal force.

If the treaty contradicts a peremptory norm of general international law, it is considered null and void. Therefore, the peremptory norms of general international law (jus cogens) in the hierarchy of international legal norms occupy the highest hierarchical position above all other norms and principles (Ştefan Mołăłăianu, 2009).

At its sixty-seventh session, in 2015, the International Law Commission decided to include the topic (Peremptory norms of general international law (jus cogens) in its programme of work. In 2022, the International Law Commission adopted, on second reading, the entire set of draft conclusions on identification and legal consequences of peremptory norms of general international law (jus cogens), comprising 23 draft conclusions and an annex, together with commentaries thereto (chap. IV of the 2022 ILC report).

Conclusion 2 of the report states that Peremptory norms of general international law (jus cogens) reflect and protect the fundamental values of the international community. They are universally applicable and are hierarchically superior to other rules of international law.

Draft conclusion 3 provides a definition of peremptory norms of general international law (jus cogens). It is based upon Article 53 of the 1969 Vienna Convention with modifications to fit the context of the draft conclusions.

Moreover, an annex of Conclusion 23 without prejudice to the existence or subsequent emergence of other peremptory norms of general international law (jus cogens) provides a non-exhaustive list of norms that the International Law Commission has previously referred to as having that status:

(a) The prohibition of aggression;

(b) the prohibition of genocide;

(c) the prohibition of crimes against humanity;

(d) the basic rules of international humanitarian law;

(e) the prohibition of racial discrimination and apartheid;

(f) the prohibition of slavery;

(g) the prohibition of torture;

(h) the right of self-determination (chap. IV of the 2022 ILC report).

And although the conclusions of the Commission are not positive international law, they represent an authoritative presentation of this issue.

So, it is possible to summarize and draw the following conclusions regarding the above questions. The abuse of the veto right by the permanent members of the SC is undoubtedly a consequence of the political confrontation within the SC between representatives of different ideologies. Thus, the legal system of the world order created by the victorious states after the Second World War does not work effectively. By its very nature, the UN Charter was formed in such a way as to prevent conflicts between small states, instead, the option of a hypothetical conflict between the big five with the veto right in their arsenal, remained without sufficient formal regulation. It can be argued that in the given conditions of inaction and/or improper performance of its duties to maintain peace and security on the part of the SC, there is an urgent need for a so-called compromise, which would make it possible to create an option for solving and preventing this kind of threats. From the view of the legal nature of international law, as a horizontal legal environment in which the principle of sovereign equality of subjects of international legal relations prevails, the aforementioned compromise can be seen precisely in the jus cogens norms, which are the highest in terms of hierarchy and legal force, as the functional basis of the legal mechanism. The UN Charter, as a multilateral international treaty, like any other treaty, must not contradict its peremptory norms and other provisions. In addition, the practical implementation of the powers provided for in the Charter should go in one direction, and not in violation of the principles established by Article 2 of the Charter, which also reflect the provisions of peremptory jus cogens norms, such as the prohibition of the use of force or the threat of force. Therefore, it can be argued that the spirit of the treaty should correspond to its letter, and the results of this harmony should be considered the effectiveness of practical functioning.

The veto right is an integral and necessary imperative element in the composition of the powers of great powers and is an important functional mechanism within the legal regulation of maintaining peace and security, but not in the form in which it exists today. The veto right, indeed, nowadays plays a more political role in the confrontation of ideologies, which cannot lead the world community to a peaceful existence, therefore this right should not be absolute. The absolute character is recognized by the world community precisely according to the peremptory norms of jus cogens, as norms of common sense and the true will of mankind. So, the principles enshrined in Article 2 of the UN Charter, which are the main principles of international law, have the character of jus cogens, and should become the legal basis for limiting the absolute veto right of the permanent members of the UN Security Council.

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ISSUES OF JUDICIAL PRACTICE ON DETERMINING THE MOMENT OF REAL PROPERTY OWNERSHIP

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Property has a special place in public and private life. It is the basis that guarantees the existence and development of the state economy and society as a whole. The state's guarantee to a person of the free exercise of the right to property as a natural right is a prerequisite for the exercise of other constitutional rights and freedoms of man and citizen. Guarantees, in particular the real possibility of judicial protection, are signs of a rule-of-law democratic state. Currently, the development of legal science in independent Ukraine includes the improvement of legislation in terms of regulating property rights and providing real guarantees of property rights.

Judicial protection of property rights, as one of the main guarantees of the right to peaceful enjoyment of one's property, is in some cases unable to implement the tasks set by law due to the lack of uniformity in judicial practice and unity in resolving legal issues. One of such issue is determining the moment when ownership of real estate arises.

Therefore, it is advisable to analyse court practice to develop a unified strategy for resolving homogeneous property rights issues.

The beginning of the process of forming proper legal regulation of the real estate market in Ukraine coincided with the moment of creation of the market itself and had its significant shortcomings and growth diseases. Thus, from that moment onwards, we have been constantly faced with numerous cases of fraud, abuse, and injustice in the real estate market caused, inter alia, by inadequate and insufficient legal regulation of this issue, and, as a result, various negative consequences for the owners of such property.

There have been ongoing litigations and criminal cases on these issues for many years, which require the courts, law enforcement agencies, and stakeholders to know the

subject since the 1990s, and in some cases earlier, and ideally a clear and thorough modern legal regulation.

The adoption of the first version of the Law of Ukraine "On State Registration of Real Property Rights and Encumbrances" (the "Law") in 2004 only exacerbated the situation. The Law not only contradicted the Civil Code of Ukraine but also provided for a state registration procedure that had not been established at that time. This caused even greater turbulence in law enforcement and the need for fundamental amendments to the Law, its complete revision, and rethinking. In this regard, the updated provisions came into force and became effective only in 2013.

It was at this time that one of the main issues of modern national legal regulation of the real estate market arose, namely, the establishment of an unambiguous definition of the moment when a person acquires ownership of a real estate object.

Thus, it is not uncommon in court practice for a party to a lawsuit to argue that its ownership of a real estate object under a contract arose from the moment of state registration (before 1 January 2013), as set out in Article 3(3) of the Law.

However, we cannot agree with this statement on the following legal grounds. In early 2010, the Law was amended. The new version stipulated that the rights to a real estate subject to state registration in accordance with this Law arise from the moment of such registration, which was to be carried out from 01 January 2013.

At the same time, a decision was made to harmonise the provisions of the Law and the provisions of the Civil Code of Ukraine by setting out part 4 of Article 334 of the Civil Code in the same wording as the Law. The new wording of the articles came into force simultaneously with the amendments to the Law - from 1 January 2013.

The version of the Civil Code effective prior to 1 January 2013 provided that an agreement on the alienation of property was subject to state registration, and the transferee's ownership right was established from the moment of such registration.

Thus, this version of the Civil Code did not contain any provisions stating that rights to a real estate subject to state registration arise from the moment of such registration.

In this case, the legal position on determining the moment of acquisition of ownership of real property from the moment of its state registration, based on the provisions of the Law, contradicts the provisions of the version of the Civil Code of Ukraine.

In resolving this legal issue, the following legal justification should be taken into account.

Thus, the Constitutional Court of Ukraine noted that "a specific area of social relations cannot be simultaneously regulated by single-subject regulatory legal acts of equal force, which contradict each other in content. The inconsistency of certain provisions of a special law with the provisions of the Code cannot be eliminated by applying the rule that the adoption of a new regulatory legal act automatically terminates the act (its separate provisions) that was in force earlier. Since the Code is the main act of civil legislation, any changes in the regulation of single-subject legal relations can only take place with simultaneous amendments to it".

The interpretation of these provisions gives rise to the conclusion that prior to 1 January 2013, in order to determine which provision is applicable, one should refer to part two of Article 4 of the Civil Code of Ukraine, which establishes the priority of the provisions of the Civil Code of Ukraine over the provisions of other laws. Resolving conflicts by recognising the priority of the Code's provisions is supported by the decisions of the Constitutional Court of Ukraine and the Supreme Court of Ukraine. Therefore, pursuant to Article 4 of the Civil Code of Ukraine, the Law could not establish rules other than those provided by the Civil Code of Ukraine.

Since the beginning of 2004, when the Civil Code of Ukraine came into force, all real estate transactions have been subject to mandatory notarisation. Subsequently, in accordance with the provisions of the Civil Code of Ukraine and the Temporary Procedure for State Registration of Transactions approved by the Cabinet of Ministers of Ukraine, which expired on 1 January 2013, state registration of transactions was introduced.

Thus, prior to 1 January 2013, ownership under any notarised real estate contract in accordance with the provisions of the Civil Code of Ukraine arose from the moment of

state registration of the transaction by a notary, and not from the moment of subsequent state registration of ownership.

Therefore, when resolving related disputes, courts should not formally apply Article 3(3) of the Law - the rights to a real estate subject to state registration in accordance with this Law arise from the moment of such registration, without taking into account the provisions of Article 4 of the Civil Code of Ukraine, Final and Transitional Provisions of the Law; which, in turn, clearly contradicted the provisions of Article 334(4) of the Civil Code of Ukraine as of 01.01.2013, which established the moment of acquisition of ownership of a real estate by the acquirer under the contract - from the moment of registration of the said contract, and not from the moment of registration of the right in rem.

It is a reasonable conclusion that before 1 January 2013, the moment of acquisition of ownership of a real property object did not depend on the moment of state registration of ownership.

The existence of current judicial practice regarding the moment and grounds for the emergence of ownership of real property in the course of state registration of rights only proves the importance of developing and establishing a unified approach.

Thus, the Supreme Court has repeatedly emphasised in its rulings in 2020 that the essence of state registration of rights is the official recognition and confirmation by the state of the facts of acquisition, change, or termination of real rights to real estate that have already taken place based on decisions of the relevant authorities, contracts or other documents of title by making the relevant entries in the State Register of Rights, and not the direct creation of such facts by the entries.

The Supreme Court also reasonably concluded that equating the fact of acquisition of property rights with the fact of its state registration, and even more so interpreting the fact of state registration as the basis for the emergence of such rights, is a logical and legal error, an attempt to substitute the concepts of cause and effect.

Thus, the well-established and unchanging practice of the Supreme Court in considering and resolving issues regarding the moment and grounds for the emergence of ownership of the real estate in the course of state registration of rights provides that

registration actions by their legal nature are derived from the dispositive actions of the owner of the real estate object and do not directly create the facts of acquisition, change or termination of the applicant's real rights to the relevant real estate object.

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THE LEGAL STATUS OF THE UNITED NATIONS SCIENTIFIC COMMITTEE ON THE EFFECTS OF ATOMIC RADIATION

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The establishment of the United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR) was a response to increasing global apprehension regarding the potential health and environmental implications of atomic radiation, especially after the use of atomic bombs in World War II. The committee was established by Resolution 913(X) of the UN General Assembly adopted on December

15, 1955 (The United Nations [the UN], 1955, p.5). This resolution recognized the need for a scientific body to study the effects of atomic radiation on human health and the environment, and to provide guidance to member states on radiation protection and safety issues. From then on, UNSCEAR has been instrumental in enhancing scientific knowledge and comprehension of ionizing radiation effects (the United Nations Scientific Committee on the Effects of Atomic Radiation [UNSCEAR], 2016).

UNSCEAR is tasked with reporting on the impacts and hazards of exposure to ionizing radiation on humans and the environment. Its responsibilities encompass conducting research, compiling and scrutinizing data, and disseminating reports on the consequences of radiation exposure. Additionally, the committee offers recommendations and guidance to member nations on radiation safety and protection concerns.

UNSCEAR is composed of 31 members, appointed by relevant member states of the United Nations on the basis of their scientific expertise. The committee meets annually to review and discuss scientific information and to prepare its reports. The reports are subject to review and approval by the United Nations General Assembly (UNSCEAR, n.d.).

UNSCEAR plays a pivotal role in advancing international collaboration and coordination in the domain of radiation protection. Essentially, the committee acts as a platform for member nations to exchange scientific knowledge and expertise, leading to a consensus-building process and the development of best practices in this field. As a result, UNSCEAR's work has facilitated the creation of universal standards for radiation protection, which are indispensable for ensuring the safe use of nuclear energy and other sources of ionizing radiation.

One of the most notable contributions of UNSCEAR lies in the field of radiation epidemiology, which entails the study of radiation's effects on human populations. By conducting extensive research and data analysis on nuclear accidents, such as the Chernobyl disaster, the committee has provided invaluable insights into the long-term health impacts of radiation exposure. Consequently, UNSCEAR's efforts have played a crucial role in shaping policies and regulations governing nuclear energy and radiation

protection. UNSCEAR's reports are widely recognized as authoritative sources of scientific information on the effects of atomic radiation, and they are frequently used by governments, organizations, and scientific communities worldwide.

It should be noted about close relationship UNSCEAR and the International Atomic Energy Agency (IAEA) due to they both deal with issues related to atomic radiation. The IAEA is an intergovernmental organization that promotes primarily peaceful use of nuclear energy, and is responsible for developing safety standards and providing technical assistance to member states. UNSCEAR, on the other hand, is a committee of the United Nations that focuses on assessing the effects of atomic radiation on human health and the environment. While the two organizations have different mandates, they collaborate closely on issues related to radiation protection and safety. UNSCEAR provides scientific information and advice to the IAEA, and the IAEA in turn uses this information to develop its safety standards and guidelines. In addition, the IAEA regularly consults with UNSCEAR on matters related to radiation protection and safety, and takes into account UNSCEAR's findings and recommendations in its work. The IAEA and UNSCEAR work together closely; they are separate entities with distinct roles and responsibilities completely.

As an example, I would like to cite the cooperation between UNSCEAR and the IAEA. Following the Fukushima Daiichi nuclear disaster in 2011, both the IAEA and UNSCEAR played important roles in assessing the environmental and health impacts of the accident. The IAEA provided on-site assistance to Japanese authorities, and its experts conducted a number of environmental assessments to determine the extent of the contamination and the effectiveness of the response efforts (The International Atomic Energy Agency [the IAEA], 2015, p.92-93]). UNSCEAR, on the other hand, was tasked with assessing the long-term health effects of the radiation exposure on the population. In 2013, UNSCEAR released report which disclosed character of radiation pollution due to the Fukushima Daiichi nuclear accident. The report concluded that radiation exposure levels for the public in the most affected areas were generally low, and that the overall health risks were low (UNSCEAR, 2014, p.8). However, the report also acknowledged that the psychological impact of the accident, including the fear and anxiety caused by

the evacuation, was a significant health issue that needed to be addressed (UNSCEAR, 2014, p.6). Throughout the process, both organizations worked closely together, with the IAEA providing technical assistance and expertise to UNSCEAR in its assessments. The cooperation between the two organizations was instrumental in providing an accurate and comprehensive assessment of the environmental and health impacts of the disaster (UNSCEAR, 2014, p. 2,165).

Additionally, the committee has made efforts to increase the diversity of its membership, including expanding the pool of experts from developing countries and other regions. These initiatives demonstrate UNSCEAR's commitment to addressing concerns regarding its transparency and independence and to maintaining its status as a trusted source of scientific information on radiation effects. In 2021, four new countries have become UNSCEAR's members: Norway, Algeria, the UAE and Iran (the UN, 2021, p.5).

In summary, UNSCEAR is an important and respected scientific body that has made significant contributions to the field of radiation protection. Its work has helped establish global standards for radiation protection and has provided valuable insights into the long-term health effects of radiation exposure. By promoting international cooperation and dialogue, UNSCEAR plays a crucial role in shaping policies and strategies related to nuclear energy, environmental protection, and public health.

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INTERNET BLOG AS AN INSTRUCTIONAL TOOL IN EFL SECONDARY SCHOOL TEACHING

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In order to make the process of EFL teaching more effective, various instructional tools are actively used. Apart from the conventional ones (textbooks, workbooks, audio- and video recordings etc.), innovative tools are widely being introduced nowadays (Internet resources, mobile applications, educational on-line platforms etc.). Since conventional tools do not fully secure fostering students' communicative skills, information and computer technologies may suggest a wide variety of didactic materials aiming at developing communicative competence of secondary school students in receptive, productive, interactive and mediative speech activities.

At present, Internet resources and technologies allow solving issues related to the technical means used in EFL teaching. Thus, the use of Internet sources in the educational process contributes to the achievement of the following didactic goals:

– training the skills of spoken and written production and interaction (monologic and dialogic speech, creative writing, exchanging letters etc.);

– involvement of students in independent work;

– communication with representatives of other cultures as well as speakers of the target language.

The main advantage of Internet resources is an access to authentic language and cultural materials. Resorting to the culturally (and socio-culturally) marked resources satisfy the requirement of exposing students to values of other cultures and fostering their cross cultural awareness (Бігич, 2017).

Among many online learning tools, a blog can also be considered as a means of forming EFL students' key communicative competencies. The characteristic features of a blog as a communicative genre and a particular text type (publicity, linearity, moderation, multimedia) make it possible to outline the instructional functions of blogs and their implementation in the course of teaching foreign languages. Blogs enable teachers to:

– promote interaction between students;

– organize tutorial and extracurricular activities aimed at developing speaking, reading, writing and listening skills as well as components of a linguistic competence (vocabulary, grammar, syntax);

– schedule and design both individual and group forms of student work;

– increase students' motivation and responsibility for the posted materials.

According to O. Kononova, the following types of blogs in foreign language educational settings can be suggested (Кононова, 2013):

– a teacher's blog is a blog created by a teacher, which can contain tasks for independent work, interesting and useful information, listening materials, video materials, etc.;

– a student's blog is a student's personal Internet space. Due to the technical possibilities of creating posts in blogs, the student has the opportunity to realize his creative potential;

– class blog – a joint blog of the teacher and students. Such a blog helps to establish contact between all participants of the educational process.

Besides, to enhance EFL students' collaboration a teacher (or students) can initiate a "blog project" for students to create and share presentations on certain group or individual projects (op. cit.).

In the course of EFL teaching, a blog can be considered as a source of information, on the one hand, and as a means of forming communicative and interactive skills, on the other. The table that follows provide examples teachers' and students' blogs in terms of their content and communicative skills that are fostered by means of blogging activities.

Table 1

Blog as a means of forming speaking skills

Blog type	**Content of the blog**	**Communicative skills that can be developed**
Teacher's blog	home assignments; additional learning materials on the topics under study; (primarily in a foreign language); media files; links to tests, necessary online resources, etc.	1) perception of written text (reading): finding necessary information; assess the relevance of information; 2) written/online interaction and production: asking questions to clarify information; making comments.
Student's blog	personal information about the student (age, family, place of birth, place of	1) written/online interaction and production: submission of personal

	study, hobbies, interests, etc.); personal records, creative works (essays, reviews, etc.); media files.	information in a written form in various genres (resume, autobiography, story); writing about home / English-speaking country, city, school, traditions, etc.; expressing agreement or disagreement in writing; to prove one's own point of view on the problem; 2) perception of a written text (reading): highlighting important facts; evaluation of the relevance of information, etc.

To sum it up, it is necessary to mention that in EFL teaching the use of blogs is productive mostly for developing writing and reading skills. Though it does not exclude the possibility of enhancing students' grammatical and lexical skills. Teachers can assign a variety of tasks so that blog activities complement accomplishments of an in-class work, for example: *to write a comment, using the vocabulary studied in class; to ask a question (you can specify which type) with a definite tense form of a verb etc*. Therefore, it can be argued that blog technologies have a great didactic potential. The use of blogs helps teachers to increase EFL students' motivation to learn a foreign language, to use it in extracurricular, personal communication, and for organizing self-education. Thus, the formation of the necessary key competences takes place: communication in foreign languages and lifelong learning.

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INTERACTION BETWEEN LEGAL SCIENCE AND PRACTICE IN THE CONTEXT OF PROTECTING THE RIGHTS AND FREEDOMS OF CITIZENS

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Law is one of the system's main components for protecting the rights and freedoms of citizens in modern society. To ensure the effective protection of citizens' rights, which is an important component of any democratic system, it is necessary to combine theoretical knowledge with practical experience. Therefore, the interaction between legal science and practice is an important factor in this process, and it should be constant and dynamic.

The aim of the research is to analyze existing problems and challenges in the interaction between legal science and practice, as well as to identify effective ways to improve this interaction in order to ensure better protection of the rights and freedoms of citizens.

Legal science provides the theoretical basis for the legal application. As a discipline, it researches and formulates legal principles and norms that should be embodied in legislation to protect citizens' rights. Legal application practice determines how these principles and norms are implemented in life and how the protection of citizens' rights is ensured.

The results of legal research, such as analysis of legislation, legal theory, and methodology of legal application, allow identifying gaps and shortcomings in legislation and improving it. In addition, legal science develops new principles and norms that can serve as a basis for the development of legislation and practice for protecting citizens' rights. However, without legal practice, these new principles and norms may remain on paper and have no real impact on the protection of citizens' rights. Therefore, the interaction between these two areas allows for the practical application of theoretical knowledge, as well as improving the legal system and ensuring more effective protection of citizens' rights and freedoms.

The interaction between legal science and practice has a great impact on the quality of legal protection of citizens. This ensures the improvement of the quality of the legal application and the effectiveness of the legal system. Firstly, interaction promotes continuous improvement of the legal system. Scientific research and practical analysis help identify gaps in legislation that require changes and help develop new legal tools for more effective protection of citizens' rights and freedoms. In addition, legal science and practice help ensure the correct application of legislation. Scientists can use practical research results to develop new methods of protecting rights, and lawyers and other professionals who work with the practical application of legislation can use theoretical knowledge to understand legislation and its application in specific cases better.

Also, the interaction between legal science and practice promotes access to justice and the protection of people's rights. Scientists and practitioners can jointly develop programs and initiatives that promote legal culture and ensure access to justice. This collaboration can also help increase public awareness of legal issues, making it easier for people to understand and defend their rights.

The main problem with the interaction between legal science and practice is that theoretical approaches and norms developed by legal science are often not effectively implemented in practice due to various reasons such as incorrect interpretation, divergent understandings, complex application procedures, and others. To ensure effective interaction, constant communication between academics and practitioners,

regular updating of theoretical knowledge, and analysis of citizen rights protection practices are necessary. It is also important to provide training for qualified lawyers who can successfully apply theoretical knowledge in practice and help citizens defend their rights. Legal education should include both theoretical knowledge and practical experience. Law students should have the opportunity to gain practical experience by working in legal aid organizations. This will allow them to see how theoretical knowledge can be applied in practice and help prepare lawyers who can defend citizens' rights effectively.

Legislation and citizen rights protection should ensure the interaction between legal science and practice to ensure the effective protection of citizens' rights and freedoms. Only in this way can we ensure the harmonious development of the legal system and the practice of rights protection, which is essential for creating a just and democratic society.

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THE IMPLEMENTATION OF EFFECTIVE MECHANISMS OF ELECTRONIC JUDICIARY AS A CONDITION FOR SOLVING THE PROBLEM OF COURT FINANCING

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According to the Recommendation CM/Rec(2009)1 of the Committee of Ministers of the Council of Europe to the member countries regarding electronic democracy, adopted in 2009, electronic justice is classified as a form of electronic democracy. It has been determined that e-democracy can lead to such a form that all interested parties can see and observe, have access to it, and interact with it anywhere (Committee of Ministers, 2009).

On May 26, 2021, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Ensuring the Phased Implementation of the Unified Judicial Information and Telecommunication System" (hereinafter referred to as the "Law") entered into force (Verkhovna Rada of Ukraine, 2021). This law introduced changes to the procedural codes related to the introduction of electronic justice. Among other things, it is possible to exchange procedural documents in electronic form (Part 4, Article 6 of the Code of Commercial Procedure of Ukraine (Verkhovna Rada of Ukraine, 1991), Part 4, Article 18 of the Code of Administrative Proceedings of Ukraine (Verkhovna Rada of Ukraine, 2005), Part 4, Article 14 of the Civil Procedure Code of Ukraine (Verkhovna Rada of Ukraine, 2004)), the conduct of a court case review is based on the materials in paper or in electronic form (Part 9, Article 6 of the Code of Commercial Procedure of Ukraine (Verkhovna Rada of Ukraine, 1991), Part 9, Article 18 of the Code of Administrative Proceedings of Ukraine (Verkhovna Rada of Ukraine, 2005), Part 9, Article 14 of the Civil Procedure Code of Ukraine (Verkhovna Rada of Ukraine, 2004)), etc.

Particular attention should be paid to the algorithm implemented within the Unified Judicial Information and Telecommunication System, which provides the

possibility of sending court decisions, summonses and other documents in electronic form to the user's personal Cabinet in the “Electronic Court” system (Part 5, Article 6 of the Code of Commercial Procedure of Ukraine (Verkhovna Rada of Ukraine, 1991), Part 5, Article 18 of the Code of Administrative Proceedings of Ukraine (Verkhovna Rada of Ukraine, 2005), Part 5, Article 14 of the Civil Procedure Code of Ukraine (Verkhovna Rada of Ukraine, 2004)). The technical implementation of these provisions is carried out with the help of an internal program - the Court's Automated Document Management System. If an official email address is registered in the Unified Judicial Information and Telecommunication System, the court decision can be sent by the secretary of the court session in just a few clicks, without any additional financial costs to the court. Before the implementation of these norms, there was no alternative to sending court decisions other than through the postal operator JSC “Ukrposhta”, which required significant financial expenses from the court budget.

In turn, the obligation to register an official email address in the Unified Judicial Information and Telecommunication System is provided only for certain subjects, namely: lawyers, notaries, private executors, arbitration managers, judicial experts, state bodies, local governments, economic entities of state and communal sectors of the economy and persons conducting clearing activities in the meaning given in the Law of Ukraine “On Capital Markets and Organized Commodity Markets” (Part 6, Article 6 of the Code of Commercial Procedure of Ukraine (Verkhovna Rada of Ukraine, 1991), Part 6, Article 18 Code of Administrative Proceedings of Ukraine (Verkhovna Rada of Ukraine, 2005), Part 6, Article 14 of the Civil Procedure Code of Ukraine (Verkhovna Rada of Ukraine, 2004)). For all other persons, the registration of an official email address in the Unified Judicial Information and Telecommunication System is not mandatory, that is, it is voluntary basis.

Considering the technical simplicity and financial savings for court funds in sending court decisions to an official email address via the Unified Judicial Information and Telecommunication System, it is necessary to introduce a legislative requirement for all persons applying to the court to register an official email address.

At the same time, in order to encourage the registration of an official e-mail address, there is a mechanism for leaving a claim without movement for the plaintiff at the stage of filing a claim, and for returning any application, petition or objection without consideration based on Part 4, Article 170 of the Code of Commercial Procedure of Ukraine (Verkhovna Rada of Ukraine, 1991), Part 2, Article 167 of the Code of Administrative Proceedings of Ukraine (Verkhovna Rada of Ukraine, 2005), and Part 4, Article 183 of the Civil Procedure Code of Ukraine (Verkhovna Rada of Ukraine, 2004) for participants in the case. This does not deprive them of the right to resubmit their claim, application, petition or objection in the future.

Thus, the implementation and use of the Unified Judicial Information and Telecommunication System is an important step in bringing justice closer to individuals and optimizing the work of courts. On the other hand, the absence of separate procedural norms do not ensure the full functioning of this system. Moreover, taking into account the state of war, which necessitates the accumulation of budget funds to direct them to defense needs, it is necessary to make changes to: 1) Part 6, Article 6 of the Code of Commercial Procedure of Ukraine (Verkhovna Rada of Ukraine, 1991), Part 6, Article 18 of the Code of Administrative Proceedings of Ukraine (Verkhovna Rada of Ukraine, 2005), Part 6, Article 14 of the Civil Procedure Code of Ukraine (Verkhovna Rada of Ukraine, 2004) regarding the mandatory registration of an official email address in the Unified Judicial Information and Telecommunication System by all persons; 2) Part 1, Article 174 of the Code of Commercial Procedure of Ukraine (Verkhovna Rada of Ukraine, 1991), Part 1, Article 169 of the Code of Administrative Proceedings of Ukraine (Verkhovna Rada of Ukraine, 2005), Part 1, Article 185 of the Civil Procedure Code of Ukraine (Verkhovna Rada of Ukraine, 2004) regarding the mandatory grounds for leaving a claim without movement – the absence of an official email address in the Unified Judicial Information and Telecommunication System; 3) Part 1, Article 170 of the Code of Commercial Procedure of Ukraine (Verkhovna Rada of Ukraine, 1991), Part 1, Article 167 of the Code of Administrative Proceedings of Ukraine (Verkhovna Rada of Ukraine, 2005), Part 1, Article 183 of the Civil Procedure Code of Ukraine (Verkhovna Rada of Ukraine, 2004) by supplementing them with a

clause on specifying the official electronic address in the Unified Judicial Information and Telecommunication System.

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PRESUMPTION OF CONSENT TO POSTHUMOUS DONATION

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In modern realities, a significant issue is the problem of obtaining «consent» for posthumous donation. There is organ shortage for transplantation in the world, but its ratio to the population significantly differs depending on the legal and social structure of donor systems.

The main problem in this context for Ukrainian legislation and Ukrainian medicine is the establishment of the presumption of «non-consent» for posthumous donation. This topic is the subject of debate between two opposing approaches of scientists. Some insist on the need of «consent» while others argue about «non-consent». This indicates that in legal science, there is no single universal approach to such categories as providing «consent» or «non-consent» for posthumous donation.

Furthermore, there are gaps in both the theory and legislation related to this issue, and the lack of resolution of this topic still emphasizes the relevance of research and its practical significance.

In accordance with Part 1, Particle 11 of Article 16 of the Law of Ukraine «On the Use of Anatomical Materials for Transplantation in Humans», every capable adult has the right to provide written (electronic) consent or refusal to the removal of anatomical materials from their body for transplantation and/or the manufacture of bio-implants after their state has been determined as irreversible death (brain death or biological death).

If deceased persons did not express their consent or refusal for posthumous donation during their lifetime, as determined by the transplant coordinator, it shall be requested from the partner or one of the close relatives of such person (children, parents, siblings) by the transplant coordinator personally.

If there is no spouse or close relatives as mentioned above, consent for the removal of anatomical materials for transplantation and/or manufacture of bio-implants from the body of the deceased person shall be requested by the transplant coordinator from the person who has undertaken to bury the deceased person.

In the case of the death of persons under the age of 18, consent for the removal of anatomical materials from the body of such person for transplantation and/or manufacture of bio-implants may be given by their parents or other legal representatives.

From the analysis of the aforementioned provisions, it can be seen that there is a presumption of refusal for posthumous donation in Ukraine. Therefore, to provide consent, certain actions must be taken, including submitting a statement of consent.

Such a legal position regarding posthumous organ donation is applied in other countries (the USA, the UK, the Netherlands, Germany, Japan) as well as in Ukraine (Pashkov, 2013). In Ukraine, most scholars tend to support the presumption of «non-consent» for posthumous organ donation. So, Stetsenko (2004) argues that the concept of obtaining «non-consent» is more appropriate because it allows for more effective protection of citizens' rights and interests when receiving medical care and ensuring the legality of the expression of the posthumous donor's will. Pashkov (2013) indicates that the application of the «presumption of consent» in transplantation contradicts paragraph 5 of the Declaration of Transplantation of Human Organs adopted by the World Medical Assembly in 1987. On the other hand, Komashko (2006) believes that the principle of «obtaining consent» not only expands the scope of transplantation and increases the amount of donor material, but its implementation also leads to strengthening international cooperation with other countries of the world. Briukhovetska (2016) also shares this position and notes that this principle leads to the speedy treatment of patients.

We do not support the position regarding the presumption of «non-consent» to posthumous donation, which is currently enshrined in Ukrainian legislation. We believe that this is an ineffective use of the available opportunities, which could be used to save those who can still be saved, as well as slow down the administrative procedure in the field of transplantation. In countries that have enshrined the presumption of consent at the legislative level, it is outlined that the removal of organs and tissues from the deceased for transplantation is allowed if the deceased persons did not express objections to the transplantation of their organs to another person in the event of their death and this consent was recorded in official documents or registries, as in the case of the presumption of disagreement. The World Health Assembly on May 21, 2010, adopted Resolution WHA63.22 «Human organ and tissue transplantation». It confirms its updated version, according to which for the transplantation of cells, tissues, and organs, they can be removed from the bodies of the deceased if consent is obtained in the form determined by law and there are no grounds to believe that the deceased person objected to such removal (Resolution WHA63.22 principle 1).

France is a vivid example of a country where the presumption of consent is enshrined at the legislative level. In this country, according to statistics, 92% of organs or tissues come from deceased individuals. Permission to remove organs or tissues from a deceased person is called «an act of generosity and solidarity» (un acte de générosité et de solidarité).

One of the barriers to understanding the presumption of «consent» is the stereotype that every person who enters a medical facility and is in need of life-saving treatment will be a «potential» organ donor, as doctors will prioritize saving others over that person. However, this is not the reality as doctors are bound by medical protocols that dictate specific actions in each situation.

The well-known problem of the «black market» for human organs shows that perfectly healthy and living people become mere «sources» of necessary organs for purchase. This problem can be significantly reduced and lives can be saved by using organs from deceased individuals who no longer need them. If a person is categorically against organ donation, there is a mechanism that allows him to express his «disagreement» with posthumous donation.

Thus, with the existing legislative framework in Ukraine, the complete lack of effectiveness in the transplantation system can be observed, particularly due to the absence of the presumption of «consent». This slows down the process, which leads to the loss of time that is crucial for those who need anatomical materials for transplantation and further life.

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REASONS OF HIGH LATENCY OF DOMESTIC VIOLENCE CRIMES

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In modern realities, domestic violence is a fairly widespread negative phenomenon both in Ukraine and throughout the world. Moreover, domestic violence has a high latent character, since many victims do not file a statement about the perpetrator committing a criminal offense. At the same time, the Criminal Procedure Code of Ukraine stipulates that criminal proceedings related to domestic violence may be initiated by an investigator only on the basis of the victim's statement.

So, it is important to research the reasons why victims of domestic violence do not report a crime to the police, because it will help combat domestic violence and protect the rights of victims. For this purpose, we consider it to be significant to carry out a review of modern research on this topic. For example, among the scientists who investigate the stated subject there is Barrett et al. (2017), Douglas (2019), Goodman-Delahunty and Corbo Crehan (2015).

Research by Barrett et al. (2017) shows that victims express a variety of reasons for not reporting about incidents of domestic and family violence (DFV) to police, including fear of further violence, embarrassment or shame, feeling that the incident is not important enough and feeling that they will face discrimination from police.

Douglas's research (2019) indicates that victims have a number of explanations why they had not called to police, or delayed calling. The reasons included the following: fear of increased anger from the abuser; shame and embarrassment; physical obstruction from calling the police, concerning that non-physical violence will not be taken seriously; fear that the woman will be expected to leave the relationship if she calls police; and that the woman did not feel she was in physical danger.

Goodman-Delahunty and Corbo Crehan (2015) draw attention in their research to problematic police behaviour that includes different aspects, in particular: unprofessional or illegal action; lack of respect for the victim; coercion of victims and discrimination; or omission where action could reasonably be expected. In addition, respondents identified that it was quite common for police to justify their refusal to act in response to DFV on the basis that the alleged victim had no visible physical injuries.

Douglas (2019) notes in his research that interviewees' complaints about the police's failure to investigate or take other appropriate action, the failure to take DFV (especially its non-physical forms) seriously, and the police's accusations of women, joining or manipulating the perpetrators. He states that most women contact the police only when they are at risk of serious injury.

It should be noted that the reasons why victims of domestic violence do not report a crime to the police are also common to Ukraine. So in summer 2022 Ukraine ratified the Convention on preventing and combating violence against women and domestic violence.

In accordance with Art. 55 of this Convention Parties of the Convention “shall ensure that investigations into or prosecution of offences established in accordance with Articles 35, 36, 37, 38 and 39 of this Convention shall not be wholly dependent upon a report or complaint filed by a victim if the offence was committed in whole or in part on its territory, and that the proceedings may continue even if the victim withdraws her or his statement or complaint” (Convention, 2011).

Ukrainian experts are convinced that ratification of the Convention will help break the chain of violence.

Accordingly, the law enforcement system should work to eliminate the reasons of not reporting the police about DFV and to increase trust on the part of domestic violence victims.

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"SUCCESS" FEE: INTERNATIONAL PRACTICE

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The question of a lawyer's fee for his professional activity was difficult even in the days of the Roman Empire, because as it happens Cicero and Ulpian considered the knowledge of the law as the most sacred activity, which should not be settled or refuted by money. At the same time, Cicero admitted that it was better to choose the clients from among wealthy Roman citizens, because they could pay higher fees (Flyazhnikova, 2020).

As for today, there are several types of payment for lawyer's services, which include fixed, retainers, hourly and premium fees. There are also several types of alternative fee arrangements, which are quite widespread all over the world. They are: "project" billing, discounting, blended billing rates, contingent fees, capped fees, "success" fees, retainers, and hybrid fee arrangements.

One of the most controversial ways to pay for a lawyer's services is the success fee. The general code of rules for lawyers of the countries of the European Community defines that the "success" fee is an agreement that is concluded between the lawyer and the client before the final decision is made in the case under consideration, in which the client is one of the interested parties. In accordance with the above agreement, the client undertakes to pay the lawyer a fee in the form of a monetary sum or in any other form in the event of a decision in his favor (Code of Conduct for European lawyers).

It is worth noting that in the EU countries there is a Code of Ethics for lawyers of the EU countries, according to which the use of a conditional contract, *pactum de cuota litis*, is prohibited. However, this applies to cross-border activities of lawyers within the EU. At the same time, each state has the right to decide on the issue of permission to use the "success" fee within the borders of its country, because the prohibition of *pactum de cuota litis* does not apply at the national level.

"Success" fee is a common phenomenon in many countries of the European Union – France, Greece, Ireland, Czech Republic, Slovakia, Finland and Poland. Permission to use this type of fee in one form or another has also been granted in Spain, Germany, Portugal, Lithuania and Belgium. It is also widely used in Japan, Canada, Brazil, USA, UK, and New Zealand.

One of the main cases on the issue of "success" fee in the context of the decisions of the ECHR is the decision on the case "Iatridis v. Greece" dated 19.10.2000, according to which the court ruled that the reimbursement of legal costs consists in establishing their necessity, as well as reasonableness size. At the same time, the court noted that the "success" fee is an agreement in which the client undertakes to pay the lawyer a certain percentage of the amount that the court can award him in the event of a win. However, the ECHR establishes that such agreements do not bind it [the Court] to

anything. That is, the ECHR is guided, first of all, by the principle of reasonableness of court costs, and not by the agreement itself on the payment of attorney's fees.

The USA is considered to be the state, where the "success" fee is mostly widespread. The payment of this type of fee is calculated as a percentage of the compensation amount and fixed in the contract there. However, even in the USA there are certain categories of cases in which the use of this type of fee is not allowed – in family and criminal cases. By the way, the American Bar Association (ABA) states that the average success fee is between 33-40% of the amount paid to the client upon a successful case resolution (J. Brafford).

According to Italian law, the relationship between a lawyer and a client is regulated by a contract between them, and in the absence of it, a fixed fee system is applied. As for the "success" fee, as in other EU countries, it was prohibited for a long time. However according to Decree Law No. 233 of July 4, 2006, besides abolishing minimum fees, also repealed the traditional prohibition on contingency fees provided by article 2233 paragraph 3 of the Civil code. That provision was replaced with the requirement that all agreements concerning fees be in writing. Hence, today in the Italian legal system lawyers can reach with their clients any kind of agreement concerning fees, provided that it is in writing (A. De Luca).

Talking about Canada, we should mention that historically, contingent fees based on a percentage of the amount recovered have been permitted in some provinces since the late 19th century and most provinces adopted them in the course of the 20th century. Ontario was the last to do so in the early years of this century. Quebec has historically prohibited the *pacte in quota litis* for lawyers and this prohibition remains in the Civil Code (art. 1783) but is ignored in practice. Contingent fees are combined with no win-no fee arrangements and are thus properly designated as contingent fees and not conditional fees on the UK model (H. Patrick Glenn, 2012).

Spain has also the same experience of the "success" fee as almost in all europenean countries. On November 4, 2008, the Supreme Courtnannulled a prohibition originated from the General Council of Spanish Bar that forbade the use of contingency fees, known in Spain as *cuota litis*. The rationale of the annulment was that the

prohibition did not respect the principles of free competition. From that year onward, lawyers can pursue legal claims based on that type of retribution (Lazaro, Julio M., 2008).

Limitations in fee practice in England are quite unusual, since the maximum amount of the "success" fee is established, which cannot exceed 100% of the costs of the party who lost the case. It is also worth noting the rule that the solicitor, before challenging the client's actions regarding non-payment of the fee, must contact the Taxin-Master, who will establish the reasonableness of the fee and its compliance with the complexity of the case (Glowatsky, 2007).

In Germany, success fees are not so widespread. But in individual cases and if certain conditions are met, it is possible to agree on an appropriate surcharge on the statutory remuneration or on the agreed hourly rate in the case of success. Particularly when pursuing larger claims, it may be reasonable for the client to resort to third party litigation funding. The third party covers costs and in return receives a share in the case of success. According to the Attorney Remuneration Act (RVG) the remuneration of lawyers is regularly fixed according to the amount in controversy. However, lawyers are permitted to negotiate higher fees, sec. 2, 3a RVG. On the contrary, a negotiated decrease is not permitted for court related attorney work, sec. 49b (1) BRAO, 4 (1) RVG. Sec. 4a RVG, a provision enacted in 2008, permits success fees under specific and very restricted circumstances (Reimann, 2010).

In most countries by the beginning of the 21st century the "success" fee was prohibited, but later more states began to recognize and allow its application at the legislative level or at least in one form or another. Therefore, we consider it expedient to take as an example the practice of foreign states on this issue and to establish it at the legislative level, providing for restrictions on certain categories of cases. This will be a positive step on the way to harmonize Ukrainian legislation in accordance with the legislation of the countries of the European Union, and will also help to ensure legal stability and certainty on this issue.

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NEW OPPORTUNITIES FOR TRANSPORT COOPERATION BETWEEN UKRAINE AND THE EU

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In the conditions of the impossibility of using airspace due to military actions on the Ukrainian territory, the role of the technical potential of railway transportation is significantly increasing. Ukrzaliznytsia provides daily cargo transportation, carries out evacuation flights, delivers humanitarian aid, and services the relocation of enterprises. There is an increasing demand for container transportation and understanding their advantages considering the existing intensity of train traffic and overload of road

transport directions. A network of container terminals and private operator companies is actively being formed, motivating the process of market consolidation and prophesying the achievement of complementary and synergistic effects. Therefore, it is necessary to accelerate the process of decarbonization of railway transport based on the introduction of new technologies that will significantly simplify the organization of classical and container transportation. Despite the significant time required to implement these technologies (in particular, on railway transport, it takes about 10-15 years from the request for development to experimental testing), the economic and social effects will justify the long wait.

Concentrating financial and human resources on the implementation of international projects will strengthen Ukraine's position in the field of international transportation services and create new incentives for the modernization of the domestic transportation system. In particular, only the planned replacement of the railway track with a track width of 1520 mm with a standard track of the European format with a width of 1435 mm will make it possible to intensify international connections and increase the volume of transport.

According to the Ministry of Infrastructure, Ukraine and Estonia have agreed on the start of the implementation of a pilot project on the implementation of an electronic waybill (e-TTN) for road freight carriers. This can be the beginning of the formation of a digital transport corridor between the Baltic and the Black Sea, and in the future it can become part of a large EU project on the implementation of a single goods and transport waybill (e-CMR) (Ukraina ta Estoniia, 2022). This experience will be useful for the successful organization of transportation with the help of automated traffic management systems. The Agreement on cargo transportation by road, signed between Ukraine and the EU, made it possible to cross the border without additional restrictions on the number of entries and length of stay.

New opportunities have opened with the EU's introduction of temporary trade preferences and the suspension of customs payments for Ukraine (Regulation 2022/870 of May 30, 2022), which has accelerated cargo flows across the Ukraine-EU borders. Diversification of the available sources of funds for the restoration and modernization of

transport infrastructure, the search for alternative sources will open up new opportunities for its development in the post-war period, given the scale of the destruction and the material damage caused.

The ecological modernization of water transport is also worth considering as an initiative. Ukraine will intensify its efforts to modernize it in order to reduce emissions, save fuel consumption, and increase energy efficiency to ensure the transition to zero-emission transportation. In Ukraine, there are currently no incentives for the use of alternative energy sources in transport infrastructure facilities. Direct contracts between renewable energy and fuel suppliers and transport market participants are not concluded. The high cost of such electricity compared to electricity from fossil fuels, the lack of preferences for producers to purify biomethane to the level of transport fuel, are obstacles. Currently, there are no biomethane producers in Ukraine, but there are over 60 biogas plants that produce biogas with a methane concentration of 50-55%. To obtain biomethane, which will be sold in the gas grid, it is necessary to purify biogas to the level of natural gas by removing impurities, water, and carbon dioxide. The implementation of these initiatives will help Ukraine move towards more sustainable and eco-friendly transportation. "Gals Agro" LLC in the Chernihiv Region is ready to use additional technologies already this year (Bilozerova, 2022).

Therefore, the decarbonization of shipping requires significant green investment. Even if the role of water transport in water pollution is insignificant, further improvement of its environmental characteristics will contribute to the achievement of environmental goals during the use of inland waterways. The strategy of ensuring competitive advantages in the field of water transport and the use of its transit potential is supported by the exclusion of the main competitor of Ukraine – Russia – from the market of transit transportation both at the regional level (in the Black Sea and Sea of Azov basin) and on the world market of transport services.

Logistics cooperation with EU countries will bring Ukraine’s infrastructure into much greater compliance with European standards. 4 out of 10 European transport corridors pass through the territory of Ukraine, including large transit routes (the Baltic-Black Sea corridor), so Ukraine is a convenient hub between the EU and Asia. Steps to

achieve this goal can be defined as: increasing the carrying capacity of the ports of the Danube region, building cross-border agricultural warehouses with the EU, a network of intermodal and transshipment terminals, and facilities for navigation and hydrographic support of sea routes.

Interest in cooperation with Ukraine is confirmed by the implementation of the Danube Transnational Program, which became the first EU transnational program to which our country joined in 2017. This is a unique financial instrument implemented by the European Commission through the INTERREG program. The purpose of the program is to develop communities in 14 countries of the Danube region by strengthening cross-border cooperation. The Ukrainian part of the Danube region includes the Zakarpattia, Ivano-Frankivsk, Odesa, and Chernivtsi regions, covering an area of over 68000 square km (Korchynska, 2023). In 2022, Ukraine gained the unique experience of presiding over the Danube Strategy. In a real European format, the importance of the Danube region as a strategic asset, a powerful alternative way of communication with the European Union has been proven.

In order to further improve logistics in the current conditions of the state of war, the operation of the grain corridor should be indefinite and automatically extended for a period of 120 days. Successful actions of the Armed Forces of Ukraine will contribute to the expansion of the export grain initiative by including ports in the Mykolaiv region. As the transportation of grain cargo has shifted to water routes, there will be a need for the construction of watercraft and investment in the corresponding transport infrastructure facilities

For a globalized industry such as water transport, its post-war development and integration largely depend on legal aspects, market liberalization of transportation, and implementation of joint regulations. Based on the implementation of programs developed in tandem with partner countries, a transition to the European port-landlord management model will take place, transport corridors will be formed with the involvement of river terminals, and land transport routes will be connected. All this will contribute to an increase in the volume of exports. For the effective application of interoperability principles, it is necessary to review tariff policies and promote the

development of multimodal, intermodal, and combined transport in Ukraine to improve the organization of international transportation.

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VIOLATIONS OF THE PEREMPTORY NORMS OF GENERAL INTERNATIONAL LAW (JUS COGENS) BY THE RUSSIAN FEDERATION

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In 1953, Hersh Lauterpacht published an essay in honor of his teacher Hans Kelsen. The essay was called "Rules of Waging War in the Conditions of Illegal War." The essay begins with the observation that the place of war in the system of international law has undergone fundamental changes. Aggressive war has ceased to be a sovereign right and has become illegal, criminal, and immoral. However, not all legal consequences of this fundamental change are clearly defined in the texts of treaties or resolutions of the United Nations. Their identification requires a judicious application of legal principles guided by the axiom that international law is a complete legal system, not a simple set of rules.

The modern war between Russia and Ukraine is one of the most complex and, at the same time, the most controversial events of recent times, which is quite challenging to define in the classical terms of historical, political science, and international relations theory.

The war in Ukraine again proves how difficult it is for the law to regulate international relations.

Russia's invasion of Ukraine violates the prohibition on using force under Article 2(4) of the UN Charter. However, there are two exceptions to this prohibition; use of force in self-defense under Article 51 of the Charter and collective security operations authorized by the UN Security Council. Any use of force that does not fall under these exceptions is an act of aggression.

Thus, Russia's invasion of Ukraine is an illegal use of force and an act of aggression.

First of all, Russia violated the Budapest Memorandum and the Tripartite Statement of January 14, 1994, by which it, together with the United States and Great Britain, became the guarantor of the independence and integrity of Ukraine, which renounced nuclear weapons.

The Kremlin also dealt a significant blow to the foundations of international law, violating a number of its principles by invading Ukraine, including:

– the principle of non-use of force and the threat of force;

– the principle of non-interference in the internal affairs of the state;

– the principle of territorial integrity of states;

– the principle of inviolability of state borders;

– the principle of good faith performance of international legal obligations.

Prohibiting unjustified use of force is a cornerstone of modern international law.

The distorted interpretation and application of international legal norms led to the death of thousands of people, the destruction of numerous cities, and the largest refugee crisis in Europe since the Second World War.

Putin's imperialist fantasies severely threaten international peace and violate the fundamental principles of international law.

Russia's aggression is the total of all violent acts committed by its armed forces against Ukraine and its people. When Russian forces attack civilians, their homes and businesses, their hospitals, and cultural sites, those attacks are doubly illegal. These attacks violate both the prohibition of aggression and the basic norms of international humanitarian law.

Russia bears state responsibility for all damage caused by its internationally illegal act of aggression. In principle, states must fully compensate for all injuries directly caused by the unlawful use of force, regardless of whether these injuries result from violating international humanitarian law. This includes death or injury to Ukrainian combatants and death or injury to Ukrainian civilians outside the scope of international humanitarian law. When Russia pursues illegitimate goals with illegitimate means, it does even more harm and bears even greater responsibility.

Russia's violation of imperative norms prohibiting aggression and reflecting the basic norms of international humanitarian law caused several legal consequences that continue to shape the strategic, political, and military landscape. Russia's armed aggression activated Ukraine's right to individual self-defense and, with it, the right of any country in the world, at Ukraine's request, to fight with Ukraine within the framework of collective self-defense. Every country in the world is legally obliged not to contribute to Russia's aggression, not to recognize any situation resulting from Russia's aggression as legitimate, and to cooperate to stop Russia's aggression by legal means. The military aid offered to Ukraine and the economic sanctions imposed on Russia reflect these legal rights and responsibilities.

Russia's gross violation of the basic principles of the world legal order undoubtedly demonstrates the fragility of international law in the absence of automated enforcement mechanisms, which becomes even more problematic when powerful states seek to achieve political goals that are justified by contradictory or unfounded claims based on gross distortions of the fundamental norms of international law.

Arguably, the future legitimacy of international law will be seriously damaged only when attempts to distort its fundamental principles become precedential enough to

lead to a severe revision of those principles and the assumptions on which they are based.

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AI-BASED LEGAL DECISION-MAKING

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There is no denying that artificial intelligence is already in our lives. No matter where you are or what you are doing, AI is all around you, probably helping you in one way or another. This includes offers in online stores, traffic cameras, self-driving (or even regular) cars, built-in assistants in cell phones, even seismic monitors and those very annoying ads. AI is everywhere, often unbeknownst to us, and we need to make sure it is used for our benefit.

Let us make sure we understand what artificial intelligence is. Does it mean that machines can (or will) think like humans? No, that does not seem achievable anytime soon, and more importantly, it's not necessary. AI is simply the ability of machines to perform tasks such as speech and object recognition, language translation, decision making, and most importantly, learning from experience and improving efficiency, usually associated with intelligent beings (not always humans).

Artificial intelligence covers several areas where the standard algorithmic approach is ineffective or simply not possible. Machine learning is the ability to train an algorithm on sample data to perform a specific task. For more complex tasks, deep

learning comes into play, using multiple layers of neural networks that loosely mimic the workings of the human brain. Natural language processing involves understanding human language, from simple chatbots designed to handle the most common questions a customer might have, to machine translation for any language pair. Perception uses input sensors to analyze the environment and includes things like computer vision, feature detection, object recognition, etc.Problem solving is the most complex area, aiming to reproduce a decision process under ambiguous conditions, incomplete or uncertain input data, and complex application domains.

So, which areas of artificial intelligence are used in the legal field? We have a variety of tools at our disposal: data mining from centuries of legal documents, contract analysis, prediction, risk assessment, and numerous chatbots that help with the most common legal issues. However, are we ready as a society, or as legal or computer science professionals for legal decisions made by AI?

It seems that it is still too early for that, and we have some major obstacles to overcome. First, there is the question of accountability. Legal errors happen all the time, court decisions are overturned, modern criminological methods have led to the revision of thousands of cases. Who should be held responsible for a wrong, harmful AI decision, and to what extent? Should the algorithm developer, the legal advisor, the learning supervisor who trained the model be held responsible?

Second, there is the issue of data vulnerability. While algorithms are not susceptible to cognitive bias, any model is dependent on the data used to train it. Typically, more data means that a decision can be made with more certainty. Thus, any time we have a minority group in a data set, we need to be sure that there is no bias just because there was less training data available.

Finally, there is the explainability of a decision. We need to be able to understand the reasoning behind it, what factors have been taken into account, and how much of an impact they have had on the decision. That opens up a whole new area of research for explainable algorithms and models, but we're just not there yet.

In summary, what conclusions can we draw? Should we really be afraid of artificial intelligence? We definitely should be. This is a relatively new field, especially

in terms of computing power and the amount of data that has just become available. We need to make sure that there are proper regulations in sphere that allow us to understand what algorithms and models are being used, what their purpose is, and how our privacy is being protected. Although, should we fear that artificial intelligence will take over the field of law and make the profession obsolete? Absolutely not. Modern times bring modern tools, and just as computers and online resources have brought advantage to those who can use them, it is time to get ahead by understanding how artificial intelligence works and the power it brings.

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PRE-CONTRACTUAL DOCUMENTS AS A SOURCE OF LAW

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One of the most problematic and under-researched issues of civil law in Ukraine nowadays is the problem of the significance of pre-contractual documents and the liability of the parties for failure to fulfill their obligations under such documents.

Any contract is always preceded by a negotiation stage, during which the parties usually exchange preparatory documents called letters of intent, memorandum of understanding, letter of understanding, etc. Although all of these documents have different names, their purpose is the same: they provide for the party's will to cooperate, define the party's behavior and obligations during negotiations, establish the limits of liability for the breach of pre-contractual obligations, and contain provisions that help in the interpretation of the final contract. In other words, these are the types of legal documents that enable the parties to understand what they want and can expect from their relationship before they enter into a final contract, and that reflect the good faith intentions of the parties to conduct negotiations, conclude the final contract and complete the transaction contemplated by these documents.

It is also worth mentioning that the issue of the meaning of pre-contractual documents is closely related to the concept of «culpa in contrahendo», which based on the principle of good faith and duties that create obligations for the parties not only in the case of fulfillment of contractual obligations but also at the stage of negotiation and approval of the contract (Filipovic & Vehovec, 2012).

As for the Ukrainian legislation, there are no rules that would determine the legal status of documents signed by the parties before the conclusion of the final contract, and the issue of legal regulation of pre-contractual relations and pre-contractual liability is only mentioned in Article 635 of the Civil Code of Ukraine (The Civil Code of Ukraine, 2003, Art. 635), which only refers to a «contract (protocol) of intentions». At the same

time, it is stated that a contract (protocol) of intent may have the force of a preliminary agreement if the parties explicitly state so.

Therefore, these letters play a key role in the pre-contractual process and create certain obligations for the parties at the stage of negotiating and agreeing to the terms of the future contract. Such documents contain some features that provide a basis for distinguishing them as a separate source of (civil) law.

In the general theory of law, a «source of law» defines as an official form (method) of external expression and consolidation of legal norms recognized in a particular society, references to which confirm their existence (Petryshyn, Lemak, & Maksymov, 2020). At the same time, the category «source of civil law» narrows the range of issues covered by this term. This is due to the specifics of the content of this concept and the subject of legal regulation of a separately defined range of (civil) legal relations. Therefore, the sources of civil law should be considered as the entirety of legal norms that regulate civil relations in society.

Pre-contractual relations can be characterized as a separate type of civil law relations that have not been specifically distinguished before, although it deserves to be. This type of civil law relations has an external manifestation in pre-contractual documents, is inherently linked to the future fulfillment of contractual obligations, and is aimed at providing guarantees for reaching a consensus between the parties in the future and acts as a form of consolidation of the rules of law since it creates personalized rules of conduct and may lead to liability of the parties (Fontaine & De Ly, 2006). These features provide the basis for distinguishing pre-contractual relations from other civil law relations and, in turn, pre-contractual documents as the basis for regulating these relations from other sources of law. This explains the importance of pre-contractual documents as sources of civil law: the parties have the right to determine their behavior in the negotiation process and understand their obligations.

In international legal relations, the issue of the legal nature of pre-contractual documents is studied by the Working Group on International Contracts (Working Group), which conducts a systematic analysis of various pre-contractual documents. The members of the Working Group identify some difficulties that in practice prevent

the offending party from being held liable for bad faith negotiations. In particular, it concerns the issues of the criteria for what constitutes a breach of contract (a), remedies (b), determining the amount of damages (c), and the term of letters of intent (d).

a) The criteria for what constitutes a breach of contract are not always the same, especially considering the applicable law and the significant differences in the rules of contractual liability in different jurisdictions. For example, in French law, there is a general obligation to make every effort (to do everything possible) to succeed in negotiations, and a breach is considered to be behavior that is contrary to what is expected of a negotiator. In addition, as the negotiations progress, the requirement of good faith in negotiations increases, and accordingly, the behavior that was acceptable at the initial stage will not be the same when the parties complete the negotiations (Fontaine & De Ly, 2006). Therefore, in most cases, the parties face the difficulty of determining the extent of the offense and proving all the circumstances of the unfair behavior.

b) If the principle of good faith is violated without justified reasons during negotiations, a logical question arises as to the available remedies. It is difficult to compel one of the parties to resume negotiations and even to conclude an agreement in the form that was determined by the letter of intent. Such a remedy is not to be effective since the party that committed the bad faith behavior can be compelled to resume negotiations, but not to complete them successfully (Fontaine & De Ly, 2006).

c) The issue of quantifying the losses incurred, taking into account the damage caused as a result of the negotiations, and taking into account the loss of profit that would have resulted from the contract is not resolved. In theory, a distinction is made between negative damages (returning the affected party to the position it would have been in if there had been no negotiations) and positive damages (compensation for non-performance of the contract). Pre-contractual liability usually leads to compensation for negative damages (wasted time, damage to commercial reputation, lost profits from a transaction that could have been concluded with a third party, etc.) (Fontaine & De Ly, 2006). However, due to the specific nature of these negative damages, the affected party is likely to have great difficulty in proving certain circumstances in practice. This is due

to the difficulty of quantifying such damages.

d) Finally, the members of the Working Group note that letters of intent after the conclusion of a contract:

– in case of invalidation of a contract due to a mistake, pre-contractual documents may be useful in determining how the mistake was and determining the amount of compensation for the damage caused;

– may serve as evidence of a failure to fulfill a pre-contractual obligation even in cases of validity of contracts and serve as a basis for compensation for damages;

– can serve as a means of interpreting specific contractual provisions to which they referred during the negotiations (Fontaine & De Ly, 2006).

As we can see, at the initial (pre-contractual) stages, such documents define the purpose and scope of future negotiations, as well as prescribe procedural aspects, and during the negotiations, separately fix their results. At the same time, some basic agreements may be adopted, and specific details may be determined in the subsequent stages of negotiations (Fontaine & De Ly, 2006), i.e., in this case, pre-contractual documents create obligations on the parties and the negotiators may lose some of their freedom of action, as they will be obliged to comply with the agreed behavior. In addition, the purpose of pre-contractual documents is to induce the conclusion of the contract and fix the future terms of the contract.

The provisions of such documents may create legal obligations on the part of, those who have signed them, which in turn confirms that they are expressed as forms of consolidation of legal norms governing binding rules of conduct. In other words, pre-contractual documents set external expression to the norms of law that apply in the relationship between the parties and will be applied by the court in the case of a dispute between them. However, the main difficulty in characterizing pre-contractual documents as separate sources of civil law is that they have not been regulated either in classical legal theory or in the doctrine of civil law.

Thus, pre-contractual documents that take into account the mutual interests of the parties constitute a convenient way to regulate the essence of the pre-contractual process and can ensure conflict-free settlement of disputes between the parties. Therefore, the

role of these documents in civil law is constantly rising. Because of this, they deserve to be a separate subject of research in the modem civil law doctrine.

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AMICUS CURIAE AS AN INSTITUTION OF INTERNATIONAL JUSTICE

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Amicus curiae has been defined as a bystander who may inform the court when the judge is doubtful or mistaken in a matter of law. The term includes both attorneys and laymen who interpose in a judicial proceeding to assist the court.

The status of the amicus curiae ends when he/she has pointed out the error or made his/her suggestion to the court. Such intervention is granted not as a matter of right but of privilege, and the privilege ends when the suggestion has been made.

The amicus curiae is not an agency or arm of the court; he/she can not perform the functions of the court.

Such acceptance of advice is the right of the court, even though both parties should object. The parties to the case should be informed of the suggestions of the

amicus and time should be given to them to resist or explain the matter brought forward by the amicus (Covey, 1959).

The Court pays substantial attention to foreign sovereign amici in considering merits cases. It often cites foreign sovereign amici in opinions and discusses their briefs at oral argument. The Court's attention to foreign sovereigns is important, and it also provides some evidence- though imperfect- of the influence foreign sovereign amici have on the Court (Eichensehr, 2016).

Applying this rule to the amicus process would stem the factual arguments that currently come from the pens of the amicus lawyers rather than from the technical experts themselves (presumably the clients). Of course, there is nothing preventing these groups and their counsel from framing factual submissions in a light sympathetic to the side they want to win. But even so, there is still an advantage to divorcing factual claims from legal arguments. Because the secret is out that the Justices value briefs that supplement their technical knowledge, the vast majority of amicus briefs stretch to make these factual claims—even if it is beyond their institutional capacity to do so. If the Court forbade factual briefs from making legal arguments, these advocacy groups would face a choice: either present new information for the Court to consider or pitch to get the Court to rule their way. Not both (Larsen, 2014).

While it is common to establish formal requirements for an amicus curiae submission, it is less common to establish them for the application process. Formal requirements concern in particular the timing (1) and length (2) of a request for leave.

Timing is one of the most important procedural aspects of amicus curiae participation in practice. Requests for leave usually must be submitted in writing. Furthermore, it may not be longer than 5 typed pages. A tribunal established a limit of 20 pages including the submission.

The Friend of the Court has risen in prominence and yet has largely escaped scrutiny. The category of amicus curiae embraces quite different types of actors. Courts, and the court rules that govern amicus curiae participation, do not often distinguish between the Invited Friend, the Friend of the Party, or the Near Intervenor. All are ―friends, and yet the term covers a range of roles and types of input.

As the courts‘ recurring references to the meaning of ―a friend of the court demonstrates, the very term and its friendly implications have helped mask these distinctions. Courts are remarkably open to amicus curiae participation, despite the occasional expression of misgivings. The friendly connotations of the term, and the Supreme Court‘s open-door policy, have established a norm of hospitality for amicus curiae, even as rules of joinder, intervention, party status, and standing have grown more constraining on others who wish to participate in appellate cases (Bartholomeusz, 2005).

The amicus curiae doctrine could be strengthened, if the rules of other courts required the same, i.e., requiring amici to identify themselves and explain how they expect to aid the court.'12

Courts, especially on the appellate level, are not simply deciding controversies but are generating judicial precedents. Bringing potential precedential ramifications to the court's attention and helping the court to avoid error should be the focus of the amicus curiae doctrine. Amici curiae do not serve these ends by simply echoing a party position; they should use their expertise generally and focus on the ramifications of a decision rather than focusing on their own interests, determining, for example, whether a court should hold narrowly or broadly. Although the adversarial nature of the legal system will instigate most private amici toward a party position, amici should strive to be as objective as possible. Only then will the amicus curiae truly be a friend to the court (Harris, 2000).

In summary in a common law system, it is a matter of public interest that each precedent that makes up the body of the law shall be as close to right as skillful and disinterested effort can make it. The court's attention should be drawn to obvious errors or facts that the parties have failed to present due to ineptitude or self-interest. In so doing, the amicus curiae may prove a true friend of the court (Covey, 1959).

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ANGLICISMS AND AMERICANISMS IN MODERN UKRAINIAN YOUTH SPEECH

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The emergence of slang with the use of English loanwords is the result not so much of the expansion of the English language itself (improvement and increase of foreign language learning at school, distribution of literature in English, intensification of international relations) as of the popularization of the Western way of life, the desire of young people to be like the heroes of popular movies and TV programs, and hence the often observed mechanical transfer of English lexemes to the Ukrainian soil.

Borrowings from the English language into youth slang already have their own "history" and are marked by "waves." The 60s, the wave of the 70s and 80s, the end of the 90s. While at an early stage of this process it was possible to speak of English-language elements in the slang of a certain group of young people (those who had direct contact with foreigners, more often residents of large cities), today the area of distribution of such lexemes has increased significantly. According to Oxford, “slang” is “a type of language consisting of words and phrases that are regarded as very informal, are more common in speech than writing, and are typically restricted to a particular context or group of people” (Lăpușneanu, 2023).

In the jargonized speech of a modern young person, one can notice several anglicized lexemes that he or she uses constantly, while others are on the periphery (the speaker understands their meaning but hardly uses them). As it was noted by Félix González, “the study of slang, especially its lexicographic registration, is often overlooked or disregarded, due, in great part, to its ephemerality and the informal, humorous and taboo character of many of its expressions, which leads to the belief that it is a deviation from the standard language” (González, 1994). In casual communication, the use of anglicisms serves as a certain contrast, an original lexeme with increased expressiveness against the background of colloquial stylistically reduced vocabulary. A sociolinguistic study among young people revealed that the most commonly used words include nouns such as gerl, seyshun, shuzi, party, and adjectives such as drive, okay, super, and others. For some lexemes respondents could easily find Ukrainian equivalents, but noted that their use is occasional, from time to time.

The process of borrowing Anglicism into slang is somewhat specific: unlike borrowings into the standard language, where the reason for borrowing is the lack of a lexeme to denote a particular reality, slang borrows lexical elements to nominate concepts that already have a verbal form in the default language. This indicates the secondary nature of youth slang, its type of slang, and its orientation toward the system of the standard language. According to Roger Kreuz, “some algospeak terms will inevitably spill over into vocabulary used offline” (Kreuz, 2023).

When borrowings enter another language, they undergo a process of phonetic, grammatical, and morphological adaptation to the system of the recipient language. Of course, we cannot but agree, that “coded language survives because it is useful” (Kreuz, 2023). In the system of slang, this process takes place with a focus on the oral, sound form of the word, not on its graphic design.

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INTERN AND LEGAL ASSISTANT IN LITIGATION

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Procedural issues of evidence are closely linked to advocacy as lawyers are responsible for defending the rights and interests of their clients in court. In this process, they must be familiar with the rules of evidence that regulate the admissibility and relevance of evidence, as well as methods for collecting and presenting evidence in court.

One of the main stages of advocacy is preparation for a court hearing. At this stage, a lawyer must identify all possible evidence that will help protect their client's interests. This may include conducting their own investigation, discovering information and documents that may be used as evidence, and collecting witness statements. The lawyer must also know how this evidence can be used in court and how to present it effectively.

During a court hearing, a lawyer must demonstrate their expertise in procedural issues of evidence, including knowledge of the rules of admissibility of evidence and principles of its use. They must also have skills for cross-examining witnesses and experts who may be brought against their client in court.

In addition, lawyers often use evidence techniques aimed at convincing the court of certain facts. These techniques may include the use of documents, witness statements, and expert opinions to create a coherent and persuasive argument in the case.

Therefore, procedural issues of evidence and advocacy are interrelated. The legal profession and internship at a law firm are interconnected because litigation forms the basis of legal practice and internships are a key stage in preparing young lawyers for legal work.

Litigation is the process of hearing cases in court, where parties can present their arguments and evidence. It requires lawyers to possess not only knowledge of the law, but also skills in argumentation, persuasion, and evidence presentation. A lawyer must know the procedural rules and techniques for collecting and presenting evidence in court to effectively defend the rights and interests of their clients. Internship at a law firm is one way to prepare young lawyers for legal practice. During the internship, young lawyers gain practical skills in the field of legal work, communicate with clients, prepare cases for court hearings, participate in the process of evidence collection, and take other necessary actions for effective legal practice.

Internship at a law firm is an important step in preparing young lawyers for litigation because it provides an opportunity to gain practical experience in legal work and helps them understand the litigation process. After completing the internship, a young lawyer can become a practicing attorney and independently defend the rights and interests of their clients

In some European Union countries, internship involves undergoing training in a court and acquiring skills as a future lawyer in participating in the judicial process.

The activities of lawyers are regulated by several rules and provisions. Legislative norms are mainly contained in the Swedish Code of Judicial Procedure, but provisions on lawyers can also be found in several other laws (Bar Association the SWEDISH). French law provides for an internship in the court. And also taking an oath by the intern before the Court of Appeals (Lawyers training systems).

Sveriges advokatsamfund (the Swedish Bar Association) was founded in 1887 and gained official recognition when the current Swedish Code of Judicial Procedure came into force in 1948. The Swedish Bar Association is governed by the provisions of the Code of Judicial Procedure and by its own Charter, affirmed by the Government. The Swedish Bar frequently acts as a referral body in consultative processes and gives

its opinion on virtually all new draft central legislation. The Swedish Bar also performs certain public functions (Bar Association the SWEDISH).

The collection of evidence of aggression by the Russian Federation and the filing of lawsuits for compensation to the victims of this aggression is an important topic today. In addition, the possibility of filing lawsuits in international courts is a crucial element in this situation. All of this emphasises the professionalism of lawyers and their preparation, as they are the ones who shape these lawsuits and represent the interests of the victims.

Due to the fact that the main burden of pursuing military crimes will be placed on the Ukrainian judicial system, as Ukrainian courts are best suited for this due to their proximity to evidence, witnesses, and victims Ukraine must make serious efforts in cooperation with the international community to prepare highly qualified professionals, future lawyers. In our opinion, it would be appropriate to introduce internships specializing in the court system, where an intern will receive the necessary practice in conducting a case in court, collecting evidence.

We propose the following changes to the legislation:

Lawyers shall practice law within their specialization. They can choose up to three fields of law for their specialization based on industry differentiation.

Specialization is a specific training through an individual program, which is created by the intern. The candidate is identified with a specific area of activity that involves internship in a court. The individual plan is proposed by the student and approved by the internship supervisor. It includes professional training in any environment that corresponds to the student's project and is independent of jurisdiction, even abroad. A special course - orientation at the National Academy of Advocacy stage is added, where the candidate is identified with the specialization. The intern is identified with the specialization at the beginning of the internship. Introduction of an oath-taking ceremony by the intern before the Appellate Court. Combining courses for intern lawyers and judges at the National School of Judges.

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REALIZATION OF "FORCED ABSENTEEISM" DURING MARTIAL LAW PERIOD

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On February 24, 2022, Russia started a large-scale invasion of Ukraine and the war against the Ukrainian people.

With the beginning of the full-scale invasion of Russian troops in Ukraine, society faced a large number of problems in many spheres of life, in particular in the legal sphere. Many issues which were considered as almost resolved before the start of the war arose in the legal field. Issues arose, in particular, in the labor sphere because the legislation currently in force was adopted during the period of peaceful existence of both the former Soviet Union and independent Ukraine. No one could predict that in the

21st century a war would be possible in the center of Europe, and therefore the labor legislation in force in Ukraine was not adapted to its application during the war.

With the beginning of the war, people were forced to leave to safer places in Ukraine and abroad to save themselves and their families. People left their jobs to escape from the war. Being in another area, and sometimes in another country, the employee is deprived of the opportunity to arrive at his / her workplace. During this period, there are cases when an employer dismisses such workers from their positions for absenteeism. However, in the situation that arose in connection with the war, it is necessary to apply the norms of labor legislation, taking into account the realities of the wartime.

During the entire period of martial law, no legislative changes were made in the matter of absenteeism. At this stage of the development of national law, the legislation provides only a general outdated rules, which are not intended for today's realities and are not fully capable of regulating social relations that arise under the conditions of martial law.

The legislator provided for the main character of absenteeism, which is the absence of valid reasons for missing a working day. However, under the circumstances of war, this norm cannot be fully applied, since it was developed and adopted during the period of peaceful existence of the country, and therefore it is not designed for application during the wartime.

The absence of an employee at the workplace during wartime in a war-torn territory should not fall under the definition of absenteeism, as this is already a different legal relationship, the solution of which is no longer possible under the norms of the old legislation.

The analysis of the existing circumstances shows the real needs to establish a new norm which will fully reproduce modern realities in labor legislation. In particular, a separate norm is needed, which will regulate the issue of the absence of an employee at the workplace during the period of hostilities.

The development of such a norm will establish a new interpretation of the concept of absenteeism, in particular forced absenteeism, which occurred against the wishes of

the employee him / herself and under the pressure of circumstances due to which the employee was unable to perform his / her work functions. Such a norm should contain both a list of circumstances that allow an employee not to appear at his workplace and a list of circumstances that do not grant him such a right. The new norms have to be adopted to regulate the employee – employer relations in the case of forced absenteeism when a person has an obligation to appear at the workplace, but the company is unable to provide him / her with the work due to the force majeure.

In addition, it is necessary to clearly determine period during which the employee was deprived of the opportunity to perform his / her work functions and get payed, who will pay for such forced absence, the procedure and terms of such payments have not been considered.

The concretization of such a concept as "forced absenteeism" at the legislative level will allow to overcome the existing legal ambiguities in the legal regulation of the issue of an employee's absence from the workplace during the wartime period.

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NEURAL NETWORKS AND COPYRIGHT

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The introduction of neural networks into different areas of life is becoming more topical and popular by the day. Rathi (2018) noted:

The term 'neural' is derived from the human (animal) nervous system's basic functional unit 'neuron' which is present in the brain and other parts of the human

(animal) body. The essence of the neural network mechanism is very similar to human intelligence. The main distinguishing features of neural networks: 1) learning from experience and a certain database, 2) generalising previous precedents and queries to new cases, 3) extracting essential properties from incoming information containing redundant data. Neural Networks are different from computer programs by virtue of their learning style (by feeding it data), they are capable of inventive output. (p. 276)

The peculiarity of the collision regulation of the legal status of neural networks is that this issue is considered from the same angle as artificial intelligence. There are the following types of neural network influence on copyright objects:

Weak impact	*A tool for creating a copyright object*	*Unpredictable final result*
- the neural network acts as an author-editor - corrects stylistic errors - no influence on the content of the work	- neural network edits images, texts - the creative potential of a neural network is limited by the information that is entered for analysis and training	- an option possible in the future, when neural networks reach another level of functioning - the autonomy of a neural network in the creation of a copyright object - no dependence of the neural network on humans

The ratio between neural networks and copyright is based on two main aspects:

1) Copyright on a particular and original neural network that belongs to a maker of a neural network.

2) Copyright on the product generated by a neural network.

Modern intellectual property law doctrine does not recognize neural networks, as well as artificial intelligence, as a copyright holder.

The US Copyright Office states: “The U.S. Copyright Office will register an original work of authorship, provided that the work is created by a human being.” According to clause 3 of Article 9 of the UK Copyright, Designs and Patents Act: “In

the case of a literary, dramatic, musical or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken" (*Copyright, Designs and Patents Act 1988*, 2020). Also, according to clause 1 of Article 1 of the Ukrainian Copyright and Related Rights Act "an author is an individual who created a work through his/her creative activity" (*Про авторське право і суміжні права*, 2022)

In most countries, the copyright of a work created by an artificial intelligence is recognised by the developer - the creator of that artificial intelligence. In some countries, most commonly in Asia, a court decision confers some amount of copyright on artificial intelligence. An example is the decision of *Tencent v. Yingxun Tech* (2019), in which it fixed the copyright in artificial intelligence. But this is an exception compared to modern copyright doctrine. There are many proponents of recognising the neural network as a copyright holder. A vivid example is the Australian court decision in the case of *IceTV Pty Limited v Nine Network Australia Pty Limited HCA 14* (April 22, 2009) on the refusal of copyright protection for artificial intelligence. A person who has used a neural network but has subsequently modified the result by his or her creative and intellectual work may hold a copyright in his or her work.

A neural network plays an important role in scientific and technical development (Fkirin et al., 2022, p.15962) of our world.

Since the inception of AI research midway through the last century, the brain has served as the primary source of inspiration for the creation of artificial systems of intelligence. This is largely based upon the reasoning that the brain is proof of concept of a comprehensive intelligence system capable of perception, planning, and decision making, and therefore offers an attractive template for the design of AI (Macpherson et al., 2021, p.608)

Controversial points in the context of neural networks and copyright that need to be developed and clarified in further scientific-theoretical work are the following:

1) copyright of products generated only by a neural network;
2) the status of persons who entered a specific request ("task") to a neural network;

3) can a neural network acquire the status of a legal personality and be a copyright holder in the future? If so, for what reasons and under what conditions;
4) models or variants of legal regulation of the copyright of the object created by the neural network to the neural network itself;
5) the balance between the safe promotion of innovations, technologies and the personal space and comfort of each of us.

New technologies, in particular neural networks, are, of course, a big risk, but any potential problems can be prevented and overcome with appropriate skills, professionalism and a universal legal regime. And then any risks can be turned into new positive opportunities.

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RESPONSIBILITY FOR GENOCIDE: THE EXPERIENCE OF FOREIGN STATES

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The term “genocide” refers to one of the most serious crimes against peace, human security and international law, which is an intentionally committed act with the objective to destroy any national, ethnic, racial or religious group by taking the lives of members of such group or causing them grievous bodily harm, creating living conditions for the group calculated to bring about its physical destruction, reducing or preventing childbearing in such group or by forcibly transferring children from one group to another (Statute, 1998).

In order to ensure peace, security and protection of humanity from genocide, the international community has regulated the prohibition of genocide, the obligations of states to prevent it, and created procedural mechanisms for bringing to justice.

The main international legal acts that provide for liability for genocide are the Convention on the Prevention and Punishment of the Crime of Genocide of 09.12.1948 and the Rome Statute of the International Criminal Court of 17.07.1998.

At the same time, the most fundamental international legal act is the Convention on the Prevention and Punishment of the Crime of Genocide (1948).

It is common knowledge that the Genocide Convention (1948) was drafted in the aftermath of the Nuremberg trial. At Nuremberg, for the first time in history, senior state officials who had committed heinous crimes acting on behalf of or with the protection of their state were brought to trial and held personally accountable regardless

of whether they acted in their official capacity and of their seniority as state officials (Gaeta, 2007).

Thus, from a historical point of view, almost a century ago, the international community decided that genocide is one of the most serious acts against the peace and security of humanity and that the perpetrators must be punished for its commission.

As of today, 152 states have signed the Convention (1948) and Ukraine is among them. By signing the Convention (1948), states have committed themselves to preventing the crime of genocide and, as some scholars believe (Milanovic, 2006), not to commit it.

Moreover, Heieck (2018) argues that states such as China, the United States, France, Russia, and the United Kingdom have a greater obligation to prevent genocide because they are the permanent five members of the United Nations Security Council and the "great powers" of the general world order.

At the national level, states have committed themselves to criminalize genocide, as defined by the Convention (1948) itself, within their legal orders, to punish it when committed on their territories, and to extradite alleged genocidaires to another contracting state.

Indeed, the regulation of responsibility for genocide at the national level has its own peculiarities, which depend on the characteristics of the legal system, as well as on the interaction between domestic and foreign law.

However, a popular opinion among scholars is that a state that has ratified the Convention (1948) must bring its legislation into absolute conformity with the Convention (1948), as if by simply inserting the relevant rule of law into its criminal code.

We cannot agree with this opinion and believe that national legislation can extensively regulate similar social relations. This view can be confirmed by analyzing the legislation governing genocide liability in such states as Ukraine, Estonia, Latvia, Kazakhstan, Norway and Austria.

For example, the Criminal Code of Estonia does not contain a separate legal provision regulating liability for genocide. At the same time, it contains a rule prohibiting the commission of crimes against humanity, including genocide.

It is interesting that the Criminal Code of Estonia expands the list of target groups that can be targeted. In particular, in addition to national, ethnic, racial or religious groups, as specified in the Convention, the Criminal Code of Estonia includes groups that resist the occupation regime, as well as other social groups.

Thus, the Criminal Code of Estonia does not contradict the Convention (1948), but rather regulates the issue of criminal liability for genocide in an expanded manner.

In turn, the Criminal Code of Latvia regulates the liability for genocide similarly to the Convention (1948). However, in addition to the legal provision prohibiting the commission of genocide, the Latvian Criminal Code also prohibits invitation to genocide and acquittal of genocide.

As for the criminal laws of Ukraine, Kazakhstan, Norway and Austria, they regulate liability for genocide in a fairly similar manner, although they have their own peculiarities.

It is interesting to note, for example, that the special part of the Criminal Code of Norway begins with the prohibition of genocide. Usually, the special part of the criminal law of most states begins with crimes against life and health or crimes against the state and national security.

Thus, the states that have ratified the Convention on the Prevention and Punishment of the Crime of Genocide (1948) have obligations to prevent and prohibit genocide.

They also have an obligation to prohibit the commission of genocide at the national level and to bring their legislation into line with the Convention (1948).

However, with regard to the latter obligation, it should be clarified that the direct transposition of the Convention’s (1948) provisions into national law is not mandatory. Thus, states have the opportunity to implement an expanded regulation of the prohibition of genocide, as Estonia has done, for example.

For Ukraine, Estonia's experience in settling responsibility for genocide is very interesting and relevant. Given the current conditions, namely Russia's armed aggression against Ukraine, the latter has the opportunity to expand the settlement of the liability for genocide, while not contradicting the Convention on the Prevention and Punishment of the Crime of Genocide (1948).

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THE MARKET OF VIRTUAL ASSETS IN UKRAINE AND LITHUANIA

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Virtual assets have gained significant attention from millions of people all over the world. The market for virtual assets has grown exponentially.

According to Consumer News and Business Channel, the best-known cryptocurrency, Bitcoin, had a good year. The digital currency has been up nearly 70 percent since the start of 2021, driving the entire crypto market to a combined $2 trillion in value (*Top, 2023).*

The topic under study is relevant because virtual assets could disrupt traditional financial systems and create new avenues for economic growth.

So, over the past few years, the market for virtual assets has expanded rapidly around the world. Ukraine and Lithuania are no exceptions. It would be significant to examine the virtual asset markets in Ukraine and Lithuania, exploring their current state, regulations, and potential for growth.

There is a flourishing market of virtual assets in Ukraine. Approximately 6.5 million Ukrainians, or 15.72% of the total population, own cryptocurrency. Overall, Ukraine ranked third in the Chainalysis Global Crypto Index for 2022, moving up one notch from the previous year (*Ukraine, 2023).*

However, despite this growth, Ukraine's legal framework for virtual assets is still in its infancy. On February 17, 2022, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Virtual Assets". Although the Law was adopted, this normative legal act did not enter into force as a result of Clause 1 of Sec. VI of the Law *(The Law, 2022)*. The lack of regulation has created a sense of uncertainty among participants in the virtual assets market in Ukraine, and many of them are unsure of the legality of their activities.

In contrast, Lithuania has taken a more proactive approach to regulating virtual assets. In this country, special legislation has been adopted. At the beginning of 2020, amendments were made to the Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing, which slightly tightened the rules for regulating the behaviour of participants in the virtual assets market. However, the framework provides clarity on the legal status of virtual assets, establishes licensing requirements for virtual asset service providers, and sets out rules for anti-money laundering and counter-terrorism financing measures.

Looking ahead, there is significant potential for growth in both the Ukrainian and Lithuanian virtual assets markets. In Ukraine, the adoption of a comprehensive legal framework for virtual assets would provide much-needed clarity and certainty for market participants, which would likely lead to further growth.

Tighter regulation has slightly reduced the demand for crypto licenses in Lithuania, although the situation on the global market shows a trend towards the constant leadership of Lithuania among other crypto-friendly jurisdictions.

Thus, research on the virtual assets market is extremely relevant and vital due to the rapid growth and adoption of virtual assets in recent years. The market for virtual assets is becoming increasingly important to the global economy. The virtual assets markets in Ukraine and Lithuania are both growing rapidly, but they are at different stages of development. Looking ahead, there is significant potential for expansion in both markets.

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JUDICIAL MONOPOLY ON INTERPRETATION OF LEGISLATION: WHAT CAN LAWMAKERS DO?

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Law is too far important to leave it
for lawyers, and so is its interpretation t…

Currently, Ukrainian lawmakers are considering a legal provision that might allow lawmaking bodies to give *"authentic interpretation" (AI)* - interpretation of legal provision by its author. Look at Article 66 in Draft Law "On Lawmaking": "*2. The*

official clarification of a normative-legal act or its … provisions … is carried out by the subject of law-making activity concerning its own normative-legal acts… 3. An official clarification cannot contain legal norms and is recommendatory ***unless*** *otherwise provided by law"* (*Draft Law "On Lawmaking,"* 2021). The main scientific and expert department of the apparatus of the Verkhovna Rada of Ukraine, having considered this draft law, raised the question of whether Parliament will explain its laws. We, therefore, must focus on this ***"unless"*** and face serious questions:

(1) Does the separation of powers principle allow the interpretation of laws only by judges and exclude authentic interpretation (AI) of law by the lawmaker?

(2) If the judges are not generally authorised to make a law, why should they have the exclusive right to interpret it?

(3) Does retrospective AI violate the Rule of Law?

S. Zagorc critically address the binding AI: *"Authentic interpretation of the law should only have an advisory or explanatory power. If the legislator in any way, not necessarily with an authentic interpretation, gives the judges concrete … instructions for understanding the law, the legislative and judicial functions are intertwined. According to Montesquieu, the union of the legislative and judicial branches of government leads to tyranny*" (*Zagorc*, 2013).

We might assume, however, that Montesquieu - author of the separation thesis – would not subscribe to this point of view on his theory. He wrote in his classical book: *"the national judges are no more than the mouth that pronounces the words of the law, mere passive beings, incapable of moderating either its force or rigour.* " (*Montesquieu*, 2012). Even though judges are unavoidably deemed to interpret laws in their adjudication, there is a strong opinion, Article 84 of Belgium's Constitution, that *"only the law can give an authoritative interpretation of laws"*.

Theoretically and historically, the separation of power principle says little about who is to interpret the law. It may well be considered part of legislative power to clarify legislation without modifying it.

Secondly, addressing another concern that AI is retrospective is unavoidable as the line between *"authentic interpretation"* and *"amendment"* is not very clear; thus, precisely for this reason, in all the jurisdictions where AI is being used, judges have some duty to check whether AI is an interpretation or an "amendment in disguise". AI is not a law but a clarification of already existing text; even though sometimes AI is called "interpretive law" or "interpretative law", these "laws" are generally not considered to be new laws but only interpretations.

We should also make it clear that retrospective legislation, as such, does not violate the Rule of Law. The European Court of Human Rights recognised several times retrospective legislative provisions to be in accordance with the Convention *"where…applicant…attempt[ed] to benefit from the vulnerability of the authorities resulting from technical defects in the law, and as an effort to frustrate the intention of Parliament"* **or** *"where the applicants … attempted to derive benefits as a result of a lacuna in the law, which the legislative interference was aimed at remedying" (Stefanetti and Others v. Italy*, 2014).

It is finally worth reminding that *retrospective interpretation* already exists in Ukraine. The Supreme Court of Ukraine's (SC's) legal positions interpreting laws have consistently been applied retrospectively. New SC legal interpretation of a legal norm is applied retrospectively and replaces old ones. If so, why then do we put up with retrospective interpretation when it is done by judges but legislators?

Thirdly, different (contradictory) interpretations of the same norm(s) appear sporadically in our case law. According to procedural law, the possible resolution is to unify case law by a decision of the Grand Chamber of SC. Judges, therefore, will consider their previous decisions and find out the "best" or "true" interpretation of the "problematic" legal provision. They hardly ever, at least officially, ask lawmakers what those meant or would have meant if they had been asked about the law provision in the relevant context. That raises a question about *democracy*, doesn't it?

Therefore, another reason for AI could be seen. Suppose the judiciary has been unable to resolve the interpretational problem for a long or goes in the wrong direction in interpreting the law. It seems appropriate for lawmakers to interfere with this problem

and return the law to some balance. The following approach of the Constitutional Court of Italy might illustrate the point better: *"The provision resulting from a law specifying an authentic interpretation ... is limited to allocating a meaning to the provision interpreted that is already contained within it, and which is recognizable as one of the possible readings of the original text(...) In such cases in fact, the interpretative law has the purpose of clarifying situations of objective uncertainty within the legislation resulting from an unresolved debate in the case law (...) or* [purpose] *of re-establishing an interpretation that is more in keeping with the original legislative intention ..."* (*Judgment No. 78*, 2012).

In Australia, for comparison, retrospective legislation was used for interpretational purposes, such as (1) *"to restore an understanding of the law that existed before a court decision unsettled that understanding"*, (2) *"to address the consequences of a court decision that unsettled previous understandings of the law"* and (3) to*"ensure that the original intent of the Parliament is affirmed" (ALRC Report 129),* 2016*).*

Fourthly, legislators should appear with AI in times of crisis, especially when it comes to "undermining" a law. Let us remind an ill-famous example from 2019 when the Constitutional Court of Ukraine stroke down the article of criminal liability for an illicit enrichment due to its "ambiguity and vagueness", allowing hundreds of accused to get away with corruption. Dissenting judges Lemak and Slidenko said the legal provision ought to have been officially interpreted and thus preserved.

Judicial deference to the agencies` interpretation has long existed in the United States. *According to Reitz (2018),* Seminole Rock or Auer deference, named after the two cases in which it received its definitive formulation, provides that reviewing courts shall give deference to agency interpretations of their rules. The typical claim for this kind of deference is thus an agency's interpretive rule or guidance document interpreting an agency's legislative rule or an even more informal agency statement about the meaning of its regulations, for example, in an informal adjudication or even an agency brief in litigation. The Supreme Court has said that under Auer deference, *"[t]he*

agency's interpretation must be given 'controlling weight unless it is plainly erroneous or inconsistent with the regulation'" (*Reitz*, 2018).

The US Courts of Appeals long ago recognised the distinction between legislative or "substantive" rules and "interpretative" rules issued by agencies: "*An interpretative rule simply states what the administrative agency thinks the statute means, and only "'reminds' affected parties of existing duties'"*(*Southern California Edison Co. v. FERC,* 1985).

Some administrative bodies in Ukraine (National Bank of Ukraine, National Energy Commission and others) pass their regulations. Legislation in those spheres sometimes requires expert knowledge to be correctly interpreted and, therefore, some "deference" to their authors. However, there are Ukrainian judges (1) who are critical of any non-judicial interpretation of legislation insisting on the recommendatory character thereof, (2) who simply ignore them, and (3) who use them (or even quote them) but never explain why.

Strangely enough, there are also (4) those who recognise AI as legally binding. As was mentioned in the final decision of the Fifth Administrative Appellate Court: *"Because the Ministry of Justice is the author of the normative acts, the clarification of which the plaintiff requested, it should have carried out an authentic interpretation, i.e., clarified the essence and individual provisions ... of the normative act ... . The peculiarity of such clarification is that the act of interpretation is issued to clarify existing norms, not to create new ones. The strength of an authentic interpretation lies not so much in its persuasiveness as in its bindingness"* (*Case № 420/9140/20,* 2021).

The judges' points are revolutionary because they have recognised the *bindingness* of an interpretation made by its author. Of course, it needs to be clarified: What the constitutional ground of such a conclusion is? Unfortunately, the Supreme Court (SC) refused to consider the case as there was no *exceptional legal problem* (or it did not want to deal with this tricky issue).

And there is another point concerning the fact that the SC does not resolve some real interpretational problems in Ukrainian legislation due to the "procedural filters" (i.e. de minimis non curat praetor). AI of some legal provisions may force the SC to

consider an interpretational problem which otherwise would not be considered by some three judges "exceptional enough". In other words, by issuing AI, lawmakers (author) can indicate a legal problem and thus invite the courts to check the AI.[10]

So, courts, at least sometimes, (1) ought to give the lawmakers (author) say their word about the possible interpretation of a legal provision at hand. Furthermore, in case of disagreement with AI, there has to be solid judicial motivation, not just an omission or a simple reference to the recommendatory character of AI. (2) Dialogue between judges and lawmakers in case of interpretation of laws might benefit the quality of interpretation and judicial decisions. Lawmakers who create some vague or "problematic" provision thus would not put their political responsibility solely on judges` shoulders.

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[10]As a general rule, a judge might not substitute AI by its own interpretation unless it is plainly erroneous or inconsistent with the construction of the norm. Surely, there must be other constraints, such as (1) the number of AI of the legal provision (which normally should be issued only once). (2) It might be a big problem if AI takes place after years of consistent interpretation by the courts. (3) If the legal norm allows ambiguous or multiple interpretations of the rights and obligations of a person in his relationship with the state, a norm is interpreted in favour of a private person *(in dubio pro tributario).*

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INTERCULTURAL FACET OF TEACHING FOREIGN LANGUAGE FOR SPECIFIC PURPOSES

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The strategic goal of mastering foreign languages by upcoming specialists is to extensively develop their foreign language competence. This refers to the acquisition of skills that allow effective use of a foreign language in various communication situations, yet primarily within professional contexts. In a broad sense, this process involves comprehending grammar rules, enriching vocabulary – memorizing new words and expressions, improving phonetics, and persistent practicing all types of speech activities.

The particularity of teaching a foreign language for specific purposes rests on the idea that it is oriented towards mastery of language tools related to explicit communicative needs for tackling professional assignments. This means greater attention to the details and peculiarities of language usage in a particular professional field. Typically, this approach is implemented in such a plane of synergistic activity of the educational process:

- learning specific vocabulary and terms used in a distinct professional domain, with a focus on practical use of the appropriate phrases and lexical structures in real situations;
- developing reading and writing skills based on profession-related texts, which call for more consideration to language structures and grammar nuances while studying such texts;
- guiding towards specific strategies for communicative interaction in terms of professional behaviour, demands and norms, which suggests involving presentations, negotiations and discussions;
- simulating real professional communication situations during the learning process;
- using special materials and resources – texts, videos and audio recordings, aimed at immersing learners in a particular professional environment;
- implementing methods and approaches, such as problem-based learning, project-based learning, and interactive learning, allowing for more productive acquisition of language material within the context of a specific professional field.

In this way, teaching a foreign language enables gaining the necessary language skills and knowledge to succeed in a professional realm, notably in areas that involve international cooperation or communication with colleagues/partners from other countries. Thus, learning a foreign language for specific purposes can help be better knowledgeable in communication strategies for ensuring enhanced international collaboration.

It is in such a scope of professional communication with representatives from other countries and cultures that cultural and intercultural differences come into play, which should be considered to boost the effectiveness of cross-border professional interaction. The awareness of this is based on the fact that "it has been widely recognised in the language teaching profession that learners need not just knowledge and skill in the grammar of a language but also the ability to use the language in socially and culturally appropriate ways" (Byram, Gribkova, & Starkey, 2002, p. 7).

Therefore, understanding cultural differences, the ability to adapt to different cultural contexts, the use of intercultural communication strategies, the aptitude for

effectively interacting with representatives of other cultures based on understanding and respect for their values, rules, traditions, and other aspects of cultural experience – this is basically what constitutes the essence of intercultural competence, which becomes augmentingly important in the conditions of globalization, when people from different cultures meet and cooperate in diverse areas, including professional ones.

It is essential to comprehend that intercultural competence is a necessary building block for foreign language communicative competence, yet "not an automatic by-product of language teaching" (Byram & Wagner, 2018, p. 14). In fact, it is a complex multidimensional concept that involves "a range of cognitive, affective, and behavioural skills that lead to effective and appropriate communication with people of other cultures" (Intercultural Competence). Intercultural competence implies a conscious effort to understand different cultures, and it involves a willingness to adjust to cultural norms and principles. While language teaching can certainly provide options for intercultural learning and communication, it is not enough on its own. Teachers must actively incorporate intercultural elements into their teaching and create paths and opportunities for students to engage in intercultural interaction.

Furthermore, intercultural competence goes beyond just language learning and can benefit individuals in various personal and professional settings. In today's globalized world, being able to effectively navigate and communicate with partners from different cultures is a crucial skill. It can lead to increased empathy, advantageous collaboration, and improved relationships with people from diverse backgrounds.

These are not all the arguments that underscore the relevance of teaching foreign languages to future professionals through the prism of intercultural approach. Nevertheless, we consider them to be quite convincing for developing foreign language courses with a pragmatic focus on applying acquired language skills in modern, real-life situations of dynamic, ever-changing multicultural world.

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PROBLEMS OF ESTABLISHING THE SCOPE OF CORRUPTION IN THE PRIVATE SPHERE

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Nowadays, the majority of the population believes that the main threat to the existence of our country, as well as its further successful development, is the existence of corruption in Ukraine. Unfortunately, corruption permeates all spheres of life in our country. Most often, corruption is divided into domestic (connected with the everyday life of citizens, such as bribes paid to police officers or healthcare workers), administrative (which occurs when citizens and entrepreneurs interact with lower and middle-ranking officials, such as bribes paid to obtain permits or avoid fines) and political (corrupt behavior of people who make political decisions, such as accepting bribes in exchange for political favors or manipulating the electoral process) *(Dr. Petter Langseth, 1999).*

The current authorities have decided that as corruption in the country has not significantly decreased in recent years, it is necessary to amend the legislative acts to ensure the effectiveness of the institutional mechanism for preventing corruption. The draft law No. 1029, aimed at ensuring the effectiveness of the institutional mechanism for preventing corruption in Ukraine, is an important step towards combating corruption in the country. This draft law, in particular, provides for the restoration of the work of the National Agency for the Prevention of Corruption. According to the President's suggestions, the head of the National Agency for the Prevention of Corruption should

be appointed by the Cabinet of Ministers based on the results of a contest in which international experts play a decisive role. This would ensure that the most qualified and experienced candidate is selected for the position and that the appointment process is transparent and impartial *(Legal analysis, 2019).*

At the same time, it is necessary to pay attention to the experience of European countries in preventing and countering corruption. Their findings can be used in the practical activities of blighty state bodies designed to prevent and counter corruption, as well as in the development of regulatory and legal acts aimed at reducing the level of corruption in the state life.

It is clear that for this it is necessary to have a clear idea of the level of corruption in the country, especially in the private sphere, which ordinary citizens face every day. Although, unfortunately, corruption in the form of bribery exists in the everyday life of any society. To date, we do not have a clear indication of the scale of corruption in our country, although there is already a draft law that provides for the reward of corruption whistleblowers.

Establishing the scope of corruption in the private sphere is difficult for several reasons: first, it is a lack of transparency, because private companies are not required to disclose their financial information to the public; second, the absence of a legislative framework; third, multifaceted forms of corruption, such as bribery, embezzlement, fraud, and extortion. Accordingly, in relation to establishing the level of corruption and preventing it, tools for the innovative fight against corruption can be distinguished: 1) Unified state register of court decisions; 2) Open data portal; 3) Cadastral map; 4) Wiklinvestigation; 5) declarations *(ACREC project, 2023).*

But in practice, the main studies of such a phenomenon as corruption are sociological research methods, in the form of a mass survey, while questionnaires or interview methods can be used. Any attempts by journalists to conduct surveys on the Internet clearly demonstrate the lack of interest of respondents in providing information about the state of corruption in the private sphere. First of all, this is emphasized by the prevalence of this phenomenon in society. Therefore, during the next population census, it is necessary to conduct a comprehensive survey on a range of issues that will be able

to give a real picture of the spread of corruption in Ukraine as a whole and in the private sphere, which will significantly improve the issue of the methodology of researching corruption in our country *(International Journal of Public Opinion Research*,2019).

Thus, I believe that establishing the real scope of corruption in the private sphere is extremely important because of its negative impact on social development. However, it is possible to fight this phenomenon, with the aim of its complete eradication, only when we have a clear idea of the scale of this phenomenon in everyday life.

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CLASS ACTIONS IN INTERNATIONAL INVESTMENT ARBITRATION: JURISDICTIONAL CONTEXT

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As the global economy continues to grow and investment opportunities expand, disputes between investors and host states have become increasingly common. One

mechanism for resolving these disputes is through international investment arbitration, where disputes are brought before an independent arbitral tribunal for resolution. Investment arbitration has also proven itself as an optimal venue to seek redress from Russia for asset expropriation and damage caused by its unlawful actions in illegally occupied territories.

In recent years, there has been a rise in the use of class actions in international investment arbitration, with multiple investors joining together to bring a collective claim against a host state. Obviously, the class actions (also called mass claims), while having some downsides, ease the financial and legal burden for the investors. However, the use of class actions in this context raises important jurisdiction and admissibility issues. In the light of prospective class actions brought by Ukrainian investors against Russia, this abstract will explore the jurisdictional and admissibility issues that arise in the context of class actions in international investments arbitration, analyzing the various approaches taken by arbitral tribunals and the implications for investors and host states alike.

The previous studies provided contradicting approaches in the admissibility and availability of the class actions to investors. My research will summarize recent practice with an attempt to provide for consistent and lasting understanding and approach to class actions in international investment arbitration.

Before moving to the class actions themselves, it is important to observe the two relevant principles underlying the investment arbitration procedure: (a) consent and (b) competence-competence of the tribunal.

Consent. The jurisdiction (i.e. the competence to adjudicate a particular dispute) of international courts, including investment arbitration tribunals, derives from the consent of the parties to empower such tribunals.

As it was stated by Filippo Fontanelli (2018), consent is "the bedrock of jurisdiction", a prominent scholar Zachary Douglas (2009) argues broader and states that "consent of the respondent host state to investor/state arbitration in the investment treaty is the most important condition for the vesting of adjudicative power in the tribunal".

In other words, a necessary condition for arbitral proceedings to commence is the consent of both parties. Host-state (respondent) consent can usually be found in bilateral investment treaties (BITs) or individual investment contracts with a particular investor. The investor`s consent is impliedly expressed at the moment of lodging a claim against the host state. Often investment arbitration tribunals are requested to determine the scope of consent, as the host states usually challenge not consent per se, but its scope.

Competence-competence. In short, the "competence-competence" principle gives the arbitral tribunal the power to determine its own jurisdiction, including any objections to its jurisdiction.

This principle plays a crucial role in numerous investment disputes as the host states, after receiving the claim from an investor, often tend to challenge or even reject recognizing the jurisdiction of relevant arbitration bodies. The principle allows the arbitral tribunals to proceed with arbitration proceedings should the state consent exist when commencing the arbitration and whether the investor has met any applicable prerequisites to filing the claim. Emmanuel Gaillard (2010), a well-known scholar and prominent practitioner in the field of investment law, has written that the principle of competence-competence is "one of the cornerstones of modern arbitration law" and that it allows tribunals to "preside over a self-contained and autonomous adjudicatory process".

Class actions in investment arbitration. The use of mass claims, also known as collective claims or class actions, in international investment arbitration has become increasingly common in recent years. However, the use of mass claims raises a number of important issues, inter alia, related to the jurisdiction and admissibility of such investment claims. A number of scholars had critical views on the possibility of class actions under the BITs. Inter alia, Relja Radovi*ƒ*á (2017) stated that "mass claims arbitration is still not a device available to investors in investment treaty arbitration".

One of the most well-known cases involving mass claims in investment arbitration is *Abaclat and Others v. Argentine Republic*. In that case, a group of approximately 60,000 Italian bondholders filed a collective claim against Argentina, alleging that the country's default on its sovereign debt had caused them significant

financial harm. The investors argued that their claims were admissible under the arbitration clause in the Italy-Argentina BIT. Italy, however, argued that the proceedings lacked its consent to proceed with a mass claim. In other words, Italy, via singing and ratifying the BIT, has consented to a certain type of proceedings - with one claimant-investor and one respondent-state. Thus, a mass claim of investors is not covered by its consent.

To assess its jurisdiction to hear the mass claims, the tribunal analyzed the Italy-Argentina BIT and relevant arbitration rules (at that proceeding the Arbitration Rules of International Center for Settlement of Investment Disputes). The tribunal has taken the following factors into account: (a) the tribunal assumed that it has jurisdiction over each of the individual claims filed in the investment proceedings; (b) the tribunal took into account the nature of the investment - that each of the investors is a bondholder, while the bonds are considered as investments under relevant BIT; and (c) both BIT and ICSID arbitration rules did not contain explicit prohibition of mass claims.

The tribunal in the *Abaclat* case ultimately ruled that it had jurisdiction to hear the investors' claims and that the claims were admissible. The reason behind such a conclusion is that the tribunal found it impossible to "lose" jurisdiction over a mass claim while effectively having jurisdiction over each of those separately. Moreover, the tribunal concluded that the BIT provided its protection for bonds, which is a typical structure involving thousands of bondholders. That having said, the BIT at least had to presume that there may exist such a number of protected investors, thus, the tribunal found that BIT did not prohibit class actions, and consent given in the BIT shall cover class actions.

Finally, the tribunal stated that it "can and ought to fill gaps left where the application of existing rules is not adapted to the specific dispute… In such a case, the filling of the gap does not consist of an amendment of the written rule itself, but rather of an adaptation of its application in a specific case". By stating that, the tribunal has effectively opened the doors for mass claims in investment arbitrations.

Other cases involving mass claims in investment arbitration have also raised significant issues. For example, in Urbaser SA and Consorcio de Aguas Bilbao Bizkaia

v. Argentine Republic, a group of Spanish companies brought a collective claim against Argentina, alleging that the country had expropriated their investments in the water and sanitation sector. The tribunal, in that case, affirmed the Abaclat case law and ruled that it had jurisdiction to hear the investors' claims.

At first, the scholars have different approaches to Abaclat`s and following cases' approach to the mass claims, however, Ridhi Kabra (2015) ultimately agreed that the majority of concerns of the mass claims were unfounded and Abaclat was an example of effective adjudication of investment claim.

In sum, the research outlined two schools of thought in relation to mass claims. On the one hand, a number of scholars expressed skeptical views on class actions. At the same time, the recent practice of investment tribunals shows that the arbitrators are willing to extend the BIT`s protection to the mass claims investors. The research found more support for the latter approach; thus, it would be fair to note, that investment arbitration leaves the doors open for mass claims. At least for now.

Implications on prospective claims. Russian unlawful invasion of Ukraine has resulted in astonishing damages. International provides for several ways of redress for such damages. One of which would be an investment arbitration claim. Given the high financial burden of investment arbitration, Ukrainian investors would be seeking to consolidate the efforts in bringing Russia to justice (at least its financial aspect). Russia will likely try to use each of the options to delay or dismiss such action, inter alia, arguing the lack of consent in adjudicating such claims. This abstract, at the same time, shows that there are solid perspectives in rebottling such an argument.

At the same time, a Ukrainian investor who is looking into filing a class action in investment arbitration has to carefully study the structure of their investment before agreeing to consolidate the efforts with others. The investments have to be identical and the claims shall be homogeneous, as it was in the Abaclat case, where the investors have identical investments and suffered from the very same action taken by Argentina.

In conclusion, I believe that Ukrainian investors should seek redress from Russia in any venue possible, and, the investment arbitration leaves the doors open for Ukrainian, both for individual claims (which are not disputed) and for mass claims.

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ARGUMENTE FÜR UND GEGEN DIE RATIFIZIERUNG DES RÖMISCHEN STATUTS DES INTERNATIONALEN STRAFGERICHTSHOF

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Am 1. Juli 2002 trat das Römische Statut in Kraft, das auf einer Konferenz in Rom im Juli 1998 angenommen wurde. Gemäß Artikel 1 des Statuts wurde der Internationale Strafgerichtshof eingerichtet, der «eine ständige Einrichtung ist und befugt ist, seine Gerichtsbarkeit über Personen wegen der in diesem Statut genannten schwersten Verbrechen von internationalem Belang auszuüben. Er ergänzt die innerstaatliche Strafgerichtsbarkeit» («Gesetz zum Römischen Statut des Internationalen Strafgerichtshofs», 2000, S.3).

Interessanterweise hat die Ukraine das Römische Statut des Internationalen Strafgerichtshofs bis April 2023 noch nicht ratifiziert. Daher werden wir versuchen, die wichtigsten Vor- und Nachteile eines künftigen Beitritts der Ukraine zu diesem Statut zu ermitteln und eine Schlussfolgerung zu formulieren, ob dies für die Ukraine von Nutzen sein wird.

Welche Vorteile bringt die Ratifizierung des Römischen Statuts für die Ukraine? Die ukrainische Nichtregierungsorganisation Juridical Hundred führt die folgenden Argumente an: 1) «Die nationalen Ermittlungsbehörden werden angeregt, wirksamer zu handeln, ein breiteres Spektrum von Fakten zu untersuchen, die auf die Begehung von Kriegsverbrechen hindeuten könnten, internationale Standards bei der Dokumentation zu befolgen, mit Zeugen zu arbeiten usw. Die Einbeziehung des IStGH in die Untersuchung der Situation im Land belebt sofort die nationalen Ermittlungen und mobilisiert die Menschenrechtsgemeinschaft…»; 2) «…die Ukraine wird ein vollwertiger Teilnehmer des Prozesses in allen Strukturen des IStGH werden, einschließlich des Rechts, einen Richter aus der Ukraine zu nominieren und an der Wahl des Anklägers des Gerichtshofs teilzunehmen…»; 3) «Dies ist...der einzige Mechanismus, um Putin und die Führer der sogenannten LPR und DPR für die Verbrechen auf internationaler Ebene vor Gericht zu stellen. LPR und DPR für die im Donbas begangenen Verbrechen zur Rechenschaft zu ziehen», usw. (Legal Hundred NGO).

Im Gegensatz zu den ersten beiden Argumenten ist auf die Entscheidung des Verfassungsgerichts der Ukraine vom 11.07.2001 Nr. 3-в/2001 hinzuweisen, wonach

«…das Römische Statut des Internationalen Strafgerichtshofs..., das im Namen der Ukraine am 20. Januar 2000 unterzeichnet wurde..., nicht mit der Verfassung der Ukraine in dem Teil übereinstimmt, der die Bestimmungen des zehnten Absatzes der Präambel und des Artikels 1 des Statuts betrifft, wonach 'der Internationale Strafgerichtshof...die nationalen Strafrechtsbehörden ergänzt'…». Die Argumentation des Gerichtshofs lautet wie folgt: «…Die Möglichkeit einer solchen Ergänzung des Justizsystems der Ukraine ist in Kapitel VIII 'Justiz' der Verfassung der Ukraine nicht vorgesehen. Daraus ergibt sich die Schlussfolgerung, dass der zehnte Absatz der Präambel und Artikel 1 des Statuts mit den Bestimmungen des ersten und dritten Teils von Artikel 124 der Verfassung der Ukraine unvereinbar sind und daher der Beitritt der Ukraine zum Statut gemäß dem zweiten Teil von Artikel 9 der Verfassung der Ukraine erst nach den entsprechenden Änderungen des Statuts möglich ist…» («Meinung des Verfassungsgerichts der Ukraine», 2001).

Derzeit wurde Artikel 124 der ukrainischen Verfassung entsprechend geändert, um die Möglichkeit der Anerkennung der Zuständigkeit des Internationalen Strafgerichtshofs (IStGH) durch die Ukraine gemäß dem Römischen Statut nur in Bezug auf Straftaten, die in die Zuständigkeit des IStGH fallen, vorzusehen. Zu diesem Zweck verabschiedete die Werchowna Rada der Ukraine am 20. Mai 2021 das Gesetz "Über die Änderung bestimmter Gesetze der Ukraine zur Umsetzung des internationalen Strafrechts und des humanitären Rechts", das jedoch noch nicht in Kraft getreten ist, da es dem Präsidenten am 7. Juni 2021 zur Unterzeichnung vorgelegt wurde und dieser den Gesetzentwurf noch nicht unterzeichnet hat.

Mit diesem Gesetzentwurf werden folgende Änderungen am Strafgesetzbuch der Ukraine vorgenommen («Informationsabteilung der Verkhovna Rada», 2021):

1. Artikel 8 des Strafgesetzbuches der Ukraine wird durch einen neuen Teil 2 ergänzt, der den Grundsatz der universellen Gerichtsbarkeit für Aggression, Völkermord, Verbrechen gegen die Menschlichkeit und Kriegsverbrechen einführt.

2. Das Strafgesetzbuch wird um den Abschnitt VI-1 "Besonderheiten der strafrechtlichen Verantwortlichkeit von militärischen Befehlshabern, anderen Personen, die tatsächlich als militärische Befehlshaber handeln, und anderen Vorgesetzten für

bestimmte Verbrechen ihrer Untergebenen" und einen neuen Artikel 311 ergänzt, der die Besonderheiten der strafrechtlichen Verantwortlichkeit von militärischen Befehlshabern regelt.

3. Die Artikel 432 "Plünderung", 433 "Gewalt gegen die Bevölkerung im Bereich der Feindseligkeiten" und 435 "Unerlaubte Verwendung und Missbrauch der Symbole des Roten Kreuzes, des Roten Halbmonds, des Roten Kristalls" wurden aus dem Strafgesetzbuch gestrichen.

4. Abschnitt XX des Besonderen Teils des Strafgesetzbuchs sieht eine besondere strafrechtliche Verantwortung für Verbrechen gegen den Frieden, die menschliche Sicherheit und die internationale Rechtsordnung usw. vor.

Unserer Meinung nach ist der Gesetzgeber also auf dem richtigen Weg, die Idee der Ratifizierung des Römischen Statuts und dessen bestmögliche Umsetzung in die ukrainische Gesetzgebung umzusetzen. Wir glauben, dass das endgültige Inkrafttreten des oben genannten Gesetzes nur vom politischen Willen abhängt und auch nur eine Frage der Zeit ist.

Was sind die Nachteile einer Ratifizierung des Römischen Statuts? Einige ukrainische Juristen äußern sich zu den negativen Folgen, die sich für die Ukraine im Falle einer Ratifizierung ergeben könnten. Gemäß dem Römischen Statut erhalten die zuständigen ausländischen Behörden eine große Anzahl von Anträgen des Aggressorstaates über Verbrechen, die möglicherweise von den Streitkräften der Ukraine begangen wurden. Rechtsgelehrte argumentieren daher, dass die Ratifizierung des Römischen Statuts durch die Ukraine in Kriegszeiten unangemessen ist, da der IStGH in diesem Fall verpflichtet wäre, eine rechtliche Bewertung dieser Vorwürfe vorzunehmen.

Smirnow M.I. ist jedoch der Ansicht, dass «hier angemerkt werden sollte, dass es keine Ausweitung der Zuständigkeit des IStGH geben wird, da er diese bereits seit 2014 auf der Grundlage der Anerkennung der Zuständigkeit des IStGH durch die Ukraine in einem besonderen Verfahren hat. Die Tatsache, dass der IStGH eine solche Zuständigkeit hat, bedeutet nicht, dass er sie ausüben wird». Der Wissenschaftler weist auch darauf hin, dass «der IStGH die Streitkräfte der Ukraine nicht für den legitimen

Einsatz von Gewalt und Waffen zur Verteidigung ihres Heimatlandes verfolgen wird. Die Tatsache, dass es rechtmäßig ist, sein Land gegen das Land des Aggressors zu verteidigen, wird durch die UN-Charta bestätigt, die die Ukraine unterzeichnet hat». (Smirnow, 2018, S. 544).

Es ist schwierig, dieser Meinung zu widersprechen, da die Ukraine sich selbst verteidigt, ohne gegen ihre internationalen Verpflichtungen, insbesondere die der UN-Charta, zu verstoßen. Wir sind daher der Ansicht, dass eine solide Grundlage für die sanfte Umsetzung des Römischen Statuts in ukrainisches Recht geschaffen wurde. Bis heute ist die Frage der endgültigen Ratifizierung dieses internationalen Dokuments eher eine politische als eine soziale und rechtliche Frage. Unserer Meinung nach wird die Ratifizierung des Römischen Statuts einer der Schritte auf dem Weg in die euro-atlantische Zukunft der Ukraine sein und auch als Beispiel für die Erfüllung der internationalen Verpflichtungen des Landes dienen, insbesondere im Zusammenhang mit der Mitgliedschaft der Ukraine in der EU.

Dennoch müssen die Erfahrungen beispielsweise der Vereinigten Staaten von Amerika berücksichtigt werden, die die Charta nicht nur nicht ratifiziert, sondern auch ihre Unterschrift mit der Begründung zurückgezogen haben, dass sie eine mögliche Bedrohung für die nationalen Interessen der USA und den Schutz ihres eigenen Militärpersonals darstellt. Trotz all der großen Vorteile, die wir aus der Ratifizierung des Römischen Statuts des Internationalen Strafgerichtshofs ziehen können, sollte der ukrainische Staat den Inhalt von Artikel 3 des Grundgesetzes nicht vergessen - der Mensch, sein Leben und seine Gesundheit, seine Ehre und Würde, seine Unverletzlichkeit und seine Sicherheit werden in der Ukraine als höchster gesellschaftlicher Wert anerkannt.

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THE PROBLEM OF THE IMPOSSIBILITY OF STOPPING THE IMPLEMENTATION OF THE DECISIONS OR ACTIONS OF THE PROSECUTOR IN CASE OF THEIR APPEAL BY THE INVESTIGATOR

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One of the "novels" of the modern Criminal Procedure Code of Ukraine of 2012 (hereinafter referred to as the CPC of Ukraine of 2012) was the institution of the appeal of decisions, actions and inaction of the prosecutorby the investigator. Such scientists as M.S. Strohovich, A.Z. Tumanyants, O.H. Shylo, O.G. Yanovska, L.O. Bogoslovska,

Yu. P. Alenin, V. Yu. Zakharchenko, V.P. Gorbachev paid attention to the mentioned question.

In comparison with the Criminal Procedure Code of the Ukrainian SSR of 1927 (Criminal Procedure Code, 1942) and the Criminal Procedure Code of Ukraine of 1960 (Criminal Procedure Code, 1960), the CPC of 2012 significantly expanded the powers of the investigator and inquirer in the area of appealing decisions, actions and inaction of the prosecutor (Criminal Procedure Code, 2012).

Paragraph 3 of Chapter 26 of the CPC of 2012 regulates the procedure of an appeal by the investigator ofdecisions, actions and inaction of the prosecutor. So, Art. 311 of the CPC, the subject of the appeal is established, Art. 312 of the CPC - the procedure of an appeal by the investigator ofdecisions, actions and inaction of the prosecutor, Art.313 of the CPC - the procedure for considering a complaint against a prosecutor's decision, actions and inaction.

The systematic analysis of the specified norms allows, among other things, to single out such an urgent problem of the institution of an appeal by the investigator ofdecisions, actions and inaction of the prosecutor, as the impossibility of stopping the implementation of the decisions or actions of the prosecutor in case of their appeal.

According to the CPC of 2012, an appeal by an investigator of the prosecutor's decisions, actions, or inaction does not stop their implementation (Part 3, Article 312 of the CPC), although under previous legislation, the appeal of some of the prosecutor's instructions stopped their implementation. O. G. Yanovska notes that the law does not prohibit the investigator in his complaint to put forward a request to stop the implementation of contested decisions or actions of the prosecutor until the time of consideration of the complaint by the prosecutor of a higher level on the merits and the adoption of the corresponding decision (Honcharenko, Nora and Shumyla, 2012).

At the same time, Yu. P. Alenin and V. Yu. Zakharchenko, by analogy with the previous legislation, propose to include in the law the provision that the execution of instructions is stopped when the investigator submits an objection to the decision (instructions) regarding the notification of suspicion, about the qualification of the criminal offense and the scope suspicions or accusations, drawing up an indictment or

closing proceedings (Kivalov, Mishchenko and Zakharchenko, 2013). A special procedure is provided for appealing the prosecutor's refusal to agree to the investigator's request to the investigating judge to apply measures to ensure criminal proceedings, conduct investigative (search) actions or covert investigative (search) actions by the investigator. In such a case, the investigator has the right to turn to the head of the pre-trial investigation body, who, after studying the petition, if necessary, initiates consideration of the issues raised in it before a higher-level prosecutor, who within three days approves the corresponding petition or refuses to approve it (part 3 of Article 40 of the CPC).

During the time of the Russian Empire, the law provided for the right of the investigator to challenge the instructions of the prosecutor only on the issue of the arrest of the accused; such an appeal stopped the implementation of the instruction, and the appeal was resolved in court. The law did not provide for the investigator to challenge other instructions of the prosecutor, but the law enforcement practice followed the path of the investigator's appeal to the court if he considered any of the prosecutor's instructions to be illegal. In the first years of Soviet power, the Communist Party of the USSR in 1922 provided for the investigator's right to appeal to the court only the prosecutor's proposal to choose a preventive measure, change or cancel it, as well as the prosecutor's decision, which he issued based on the results of the review of a complaint about some decisions, actions, and inaction of the investigator. (Criminal Procedure Code, 1922) According to the Criminal Procedure Code of 1927, the scope of the investigator's right to challenge the prosecutor's instructions was slightly reduced: the investigator had the right to challenge only the instructions regarding the selection, change or cancellation of the chosen preventive measure, while challenging the instructions did not stop their implementation (Criminal Procedure Code, 1942).

Despite the legal limitation of the scope of the prosecutor's instructions, which the investigator had the right to challenge, law enforcement practice followed the path of the investigator challenging any prosecutor's instructions. The CPC of 1960 removed the legal restriction on the scope of the prosecutor's instructions that could be challenged by the investigator, but left the departmental procedure for challenging them

to a superior prosecutor. At the same time, the law defined the instructions, the appeal of which stopped their implementation. Thus, until 2012, the law provided for appeals by investigators only to the instructions of the prosecutor. The general right of the investigator to appeal the decisions, actions or inaction of the prosecutor is provided for only by the CPC of 2012. At the same time, the new CPC made it mandatory for the investigator to comply with all the instructions of the prosecutor without exception and does not provide for cases of stopping the implementation of contested decisions or actions. Suspension of execution of contested instructions of the prosecutor was foreseen by the previous legislation and is expedient in the modern period in cases where their execution affects the constitutional rights of citizens. The new law left only the departmental procedure for appealing the prosecutor's decisions, actions and inaction to a superior prosecutor, whose decision is final and not subject to appeal to the court or other authorities.

The problem of the impossibility of stopping the implementation of decisions or actions of the prosecutor in the case of their appeal is only one of many other problems that are currently relevant and require immediate resolution.

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THE LEGAL REGIME OF MARTIAL LAW AND THE BANKING SYSTEM OF UKRAINE

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According to materialistic (or rather economic) understanding of history, the evolution of the economy plays a crucial role in the course of historical development (Tugan-Baranovskiy, 1900).

The economy of any country is constantly changing under the impact of both internal and external factors, some of which might be rather destabilizing ones. In this case, the economic function of the state is to align national economy and to find mechanisms for solving economic problems. Taking into consideration the key principles of social development, the state determines the need for legal regulation of social relationships, providing a proper legal framework. The influence of political, socioeconomic, and cultural processes causes certain changes in the social relations model which, in turn, requires transformation of the legal framework and its constituent parts, which subsequently affects the legal regime as well (Vakariuk, 2016).

The main legal act that regulates legal relations regarding the imposition of martial law in Ukraine is the Law “On the Legal Regime of Martial Law”. This law determines, in particular, the legal basis of activity of public authorities and local governments, enterprises, institutions and organizations, guarantees of human and civil rights and freedoms and the rights and legitimate interests of legal entities during martial law. In accordance with Article 1 of the Law, martial law is a special legal regime that is introduced in Ukraine or in its separate areas in case of armed aggression or threat of

attack, danger to the independence of Ukraine, its territorial integrity, and ensures provision of the appropriate state authorities, military command, military administrations and local self-government bodies of the powers necessary to avert the threat, repulse armed aggression and ensure national security, eliminate the threat of danger to the state independence of Ukraine, its territorial integrity, as well as temporary, due to the threat, restriction of the constitutional rights and freedoms of the person and citizen and the rights and legitimate interests of legal entities indicating the period of validity of these restrictions (Verkhovna Rada Ukrainy, 2015).

Russia's military aggression has posed a major challenge to functioning of Ukraine's Banking System. Overall, Ukrainian Banking System has two levels - the National Bank of Ukraine (NBU) and other commercial banks that were established and are now operating in Ukraine in accordance with the Law "On Banks and Banking" and other laws of Ukraine (Sytnyk, Stasyshyn, Blashchuk-Deviatkina & Petyk 2020). Domestic legislation provides for a narrow interpretation of the concept "banking system", i.e., in a narrow sense, the banking system is defined as a set of various types of interrelated banks that function as a whole during a specific period and perform its inherent function of generating revenue. In a broad sense, the banking system is viewed as the entire financial system. It is regarded as a set of economic, legal, and organizational conditions that determine the need for systemic regulation of banking activities (Koshevoy, 2022). As practice has revealed, there is need for proper legislation on banks and bank activity under martial law since there have only been two amendments introduced to Article 7 of the Law of Ukraine "On Banks and Bank Activity" under martial law so far.

In the absence of adequate legal regulation, banks are required to make decisions independently in order to ensure their operations in such difficult circumstances. Bankers indicate the following challenges that the banks are currently encountering: ensuring operational efficiency, preventing cyber attacks, providing redistribution of functions among different departments in various parts of the country (some employees are even performing duties overseas substituting for the ones who are currently in the "red zone"), decentralization of decision-making on opening and closing of branches,

cash-in-transit services, cash outflow from legal entities, huge demand for currency due to a large number of externally displaced persons, and contraction of the currency supply at the interbank market (Natsionalnyi Bank Ukrainy, 2022). Regardless of the fact that large banks, especially those with foreign capital, have remained surprisingly resilient so far, there are hundreds of small and medium-sized banks which experience hardship during wartime. Additionally, we should not forget about the pool of banks that have encountered the problem of the outflow of Russian capital. Proper legislative regulation of banking activity during a state of war is precisely what is needed to mitigate threats and unprecedented challenges to the banking system. This is especially relevant given that more than 50% of banking assets in Ukraine are currently state-owned.

Despite the lack of proper legislative regulation, the Board of the National Bank of Ukraine has promptly approved amendments to Resolution No. 18 “On the Operation of the Banking System Under Martial Law” dated 24 February 2022 (Natsionalnyi Bank Ukrainy, 2022).

Such appropriate actions are necessary to ensure reliability and stability of the banking system functioning and maximum support for the Armed Forces of Ukraine, as well as uninterrupted operation of critical infrastructure facilities.

In conclusion, it is important for lawmakers to take a more comprehensive approach to banking regulation in times of martial law. Resilience, adequate policy making and the ability of the banks to easily overcome the difficulties caused by war will significantly impact the material support of the army, the rear, and post-war recovery of Ukraine.

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