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# GLOBAL TRENDS AND PROBLEMS OF EDUCATION DEVELOPMENT: CONSEQUENCES FOR UKRAINE

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The modern system of higher education, which fully meets the requirements of the time, is one of the most important factors in the growth of the quality of human capital, a generator of new ideas, and a guarantee of the dynamic development of the economy and society. It is necessary to update current world trends in the development of education in a broad socio and economic context for Ukrainian higher education to perform these important tasks.

The modernization of higher education in Ukraine requires overcoming a number of problems, among which the most relevant are: the mismatch of the structure of training specialists to the real needs of the economy, the decline in the quality of education, corruption in the higher education system, detachment from scientific research, a slow pace of integration into the European and world intellectual space.

Experts also point to the significant expansion of the higher education system that has taken place in Ukraine since the mid-1990s, meaning both the increase in the number of higher education institutions and the rapid growth in the total number of students and graduates of higher education institutions.

The rapid growth of the higher education system is directly and indirectly associated with such problems as the destruction of the vocational education system, the shortage of qualified personnel in labor specialties, the impossibility for many university graduates to find a job in their field, inflation of educational and professional standards, excessive workload on teachers and insufficient funding of universities, increasing level of corruption in higher education institutions and others.

The opinion about the negative consequences of the rapid expansion of the higher education system is, at least in part, justified. About 85% of graduates of

Ukrainian secondary schools enter universities immediately after graduation. At the same time, there is a lack of specialists in labor specialties in the metallurgical, machine-building, chemical industry, and in the construction industry. The indicated rate of admission of graduates of Ukrainian secondary schools to universities is indeed very high by world standards.

According to Economic News Release in 2012, about 66% of high school graduates entered universities in the USA (US Bureau of Labor Statistics, 2013). At the same time, according to another important indicator of the development of the higher education system, namely the share of persons with a higher education, Ukraine is not among the absolute leaders. According to a 2013 study among OECD countries (the Organization for International Cooperation and Development) unites 34 countries of the world, most of which are countries with high income of citizens and a high index of human potential development, the top ten countries in the world with the highest share of people with higher education, include Canada (51%), Israel (46%), Japan (45%), USA (42%), New Zealand (41%), South Korea (40%), Great Britain (38%), Finland (38%), Australia (38%), Ireland (37%) (Edu-Active.com, 2013)

According to the sum of the indicators of the shares of persons with full and incomplete higher education, it can be stated that the real corresponding indicator for Ukraine is about 35%, considering that among the number of persons with incomplete higher education also includes those who have not received a full higher education or will not receive it in the future (Edu-Active.com, 2013).

According to the international indicator of the level of involvement in higher education (Gross Enrollment Ratio – the percentage of persons receiving higher education, regardless of their age, from the total number of persons who have a typical age for receiving higher education), Ukraine occupies one of the leading places among the countries of the Central and of Eastern Europe (73%).

At the same time, Ukraine lags countries such as Finland, the USA, Sweden, and Norway, which also have a much higher level of general social and economic development.

Thus, only some parameters of the higher education system in Ukraine can be considered excessively high (the number of secondary school graduates entering higher education institutions, the number of accredited higher education institutions), while in general, Ukrainian higher education demonstrates quantitative indicators comparable to those of other neighboring countries, in including the states of Central and Eastern Europe.

The trends in the development of higher education in modern Ukraine are determined by fundamental values and principles, which include the autonomy of the institution of higher education, academic freedom, freedom in expressing opinions, choosing the topics of scientific research, and methodology. The main trends in the development of higher education in modern Ukraine are the adaptation of the principle of Open Science in the space of higher education of Ukraine, the development of a remigration strategy as a counterbalance to the phenomenon of scientific emigration, the preservation and development of human potential, the modernization of the professional activity and development of scientific and pedagogical workers of the university, the organization of distance learning, the establishment of the work of psychological service centers, the involvement of universities in the forms of scientific research work in the processes of socio and economic recovery, the displacement of Russian influence from the space of Ukrainian education and science.

It is necessary to identify and substantiate the trends in the development of higher education in modern Ukraine in a time-space dimension – the unity and contradictions of factors and consequences of changes before the war, during the Russian-Ukrainian war since 2014 and in the future (the post-war period of recovery and development).

To achieve the goal, it is effective to apply civilizational, personally oriented approaches, methods of philosophical analysis, the principle of student-centeredness, which makes it possible to analyze trends in the development of higher education in the time-space dimension of modern Ukraine; to find out the strategic features of the

organization of the educational process in higher education in wartime and postwar times.

As it was stated by V. Bodak, strategic tasks for the 2022/2023 academic year are to expand the geography of international relations, the university's partnership network with foreign educational institutions and organizations within the framework of educational and scientific foreign programs (Bodak, V., (2022).

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## LANGUAGE AND CULTURE: INTERCULTURAL COMMUNICATION

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To understand the relationship between language and culture better, it is necessary to explain the meaning of “language” and “culture”. Language is a system of “speech, manual, or written symbols” that humans use to communicate and enables us to communicate, interpret, and play. Language helps us to share with others and identify ourselves. “Culture” teaches us how to think, communicate with others, and perceive our surroundings. It is our cultural perspective.

The cultural theorist Robert Hall defines language as the institution in which individuals interact and speak with each other through regularly used spoken aural random signs and codes (Hall R.A., 1968). According to the American linguist Edward Sapir “Language is primarily an auditory system of symbols”. It is a human and non-instinctive method of communicating ideas, emotions, and desires through voluntary produced symbols (Sapir E., 1921). Some important definitions of language are found in the papers of other authors as well.

Language and culture are interconnected as an inextricable binder that splits identity and community. They are not just next to each other but interact and influence each other in the most important aspects of life. Intercultural communication becomes a key mechanism of mutual understanding and cooperation between other cultural groups. The relationship between language and culture, the specifics of intercultural communication, and strategies for successful communication between representatives of different cultures should be analyzed.

Language is not only a means of transmitting information, but also a deep reflection of cultural values, traditions, manifestations, and identity. Each culture has its own language, which shows and reproduces the characteristics of individuals, their ways of thinking and perceiving the world. For example, Japanese culture is famous for its politeness and excellent forms of expressiveness, which is reflected in unique aspects of speech and ways of expressing feelings.

Intercultural communication faces many challenges related to differences in language, cultural norms, stereotypes, and perceptions. One key aspect is understanding that cultural differences can lead to misunderstandings and conflicts.

The development of model of intercultural sensitivity created by Milton Bennett is a grounded theory based on constructivist perception and communicative theory. The experience of reality is constructed through perception (Bennett, M., 2017).

In Asian cultures direct confrontation or expression of negative emotions may be perceived as disrespectful or unacceptable.

For successful intercultural communication, it is important to have respect for another culture, be open to new experiences, and be able to adapt to different ways of believing, thinking, and feeling. Key strategies include active listening, use of

non-verbal means of communication, and cultural learning. It is also important to be open to compromise, conflict resolution, and the pursuit of common understanding.

It can also be added that globalization has affected intercultural communication. Globalization leads to the growth of international connections in all areas of life, including communication. It means that people from different cultures now have more opportunities to communicate, but it also carries risks of misunderstandings due to cultural differences. The use of language idioms and expressions may be perceived differently in different cultures. Therefore, it is important to develop cultural sensitivity and the ability to adapt to different intercultural situations.

Language plays a key role in the transmission of cultural values, traditions, and history. It preserves unique aspects of cultural heritage that may be lost due to globalization and cultural assimilation. Language programs preserve indigenous languages contribute to the preservation of traditions and these communities.

Challenges of cross, cultural communication in business and politics: In business and politics, cultural differences can become an obstacle to effective communication and the achievement of common goals. For example, in international business negotiations, it is important to note the cultural characteristics of partners and to be able to adapt to their communication styles. It is also important to improve

cultural sensitivity in political relations to avoid conflicts and build fruitful relations between countries.

The role of language education programs in promoting understanding of other cultures. Language education programs develop an important role in promoting intercultural understanding and interaction. They help students understand not only the language, but also the cultural aspects of the country where this language is native. For example, student exchange programs promote internal understanding and cultural integration, allowing participants to deepen their knowledge of other cultures through direct communication and immersion.

So, intercultural communication is an integral part of the modern world, where various cultures meet and interact. Understanding the connection between language and culture will contribute to the rapprochement of peoples and progressive peaceful coexistence in a globalized world. Only through mutual understanding and respect for cultural differences can we build harmonious relationships and communities that strengthen our world.

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# FROM CONVICTION TO UNDERSTANDING IN THE FIELD OF LEGAL SCIENCE

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One of the relevant data contributing to the characterization of the configuration of legal science is the fact that in general terms and according to Entelmann's assumption (Contribution to the development of legal epistemology), the discourse of science and the discourse of law - norms, jurisprudence, doctrine - perform the same function: to preserve and, at the same time, to promote changes and development of social cohesion in a given society. Legal science, within the framework of research practice that can be characterized today as traditional, appears as a reading of law that should contribute to the fulfilment of its function of regulating and inducing social behaviour in a certain sense and in structuring a certain order.

This relative identification of law as a normative system and legal science as a systematic reflection of knowledge about the goals of both leads to the justification of the validity of norms that regulate and condition social behaviour in response to specific goals that usually remain implicit, if not simply hidden. So, the scientific discourse is levelled, since its function should be to provide elements that allow us to explain and/or understand the reality of the legal and at least make explicit the goals or consequences of certain social norms.

From the critical point of view, various contemporary authors point to various aspects of the functioning of modern law and legal theory that make the way of identification between the body of knowledge and the object of study observable. Kahn suggests the need to analyse the culture of the rule of law as a specific political and legal formation in order to free legal theory from its attachment to the very functioning of the rule of law (Kahn, 2001). According to the author, the legal discipline is in a situation where the analytical possibility of establishing an elementary distinction between the subject and the object of research is collapsing: the researcher of law from the very beginning seeks to function, which necessarily involves the ascription of a number of assumptions that organize a certain set of existing norms.

Similarly, Kennedy in his famous work "Critique of Rights in Critical Legal Studies", in which he discusses the need and possibility of criticism in the legal field, emphasizes the fact that rights - or the discourse of rights - function in a global project of bourgeois moral correctness (rational and transcendental), which structures

modern forms of racist and capitalist patriarchy at a more or less global level in our contemporary societies (Kennedy, 2006). So, Kennedy directly points to the values that structure the legal sphere and problematizes the way in which lawyers lightly commit themselves to its functioning.

According to modern perspectives, which we can call the "modern conception of science," scientific discourse specific to the social sciences is an institutionalized social practice aimed at clarifying and/or understanding problematic and/or unknown aspects of social reality. From this point of view, legal science is an institutionalized social practice aimed at clarifying and/or understanding problematic or unknown aspects of legal reality or simply law.

Thus, based on this brief characterization of the problem, which implies a configuration of legal science based on demonstrating some common sense about what constitutes its object, we can move forward analytically in the obstacles of the research task in law. Among the elements that, in our opinion, deserve attention in view of the problematization of contemporary practices of scientific (or allegedly scientific) discourse on law, we have identified: scant reflection on the epistemological assumptions of legal science; the identification of the legal with the norm and the reduction of the latter to the text of the law; and the hegemonic presence of legal dogma as a paradigm or scientific concept. Obviously, these factors are interrelated and do not cause each other sequentially. The largely scant epistemological reflection in the legal field tends to guarantee the hegemonic predominance of legal dogma, but it is this very presence of dogma that hinders the processes of problematizing epistemological assumptions. Likewise, the identification of law with the norm and the norm with the text of the law explains the predominance of dogma, is explained by it, and in turn is determined by the lack of epistemological reflection in the field of legal science.

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# BANKRUPTCY OF AN INDIVIDUAL

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This topic is very relevant as it concerns the ability of individuals to change their financial status in case of insolvency. In the modern world, where the number of loans, borrowings, and financial obligations is increasing, the issue of bankruptcy becomes increasingly important for understanding and resolution. Studying this topic allows considering mechanisms for protecting the rights of individuals in the financial sphere and addressing the issue of effective financial management.

According to current legislation, the bankruptcy procedure of an individual involves describing the debtor's property and determining the value of the liquidation estate by the arbitration manager. However, converting this property into cash is not an easy task, and sometimes it is not purposeful. Clearly, when evaluating assets such as land plots and buildings, it is necessary to consider their location, purpose, and method of use. When evaluating cars, an important role is played not only by the brand and age of the car but also by the dynamics of the used car market and the prospects for their realization (Harnyk, 2017; Zahorui, 2020). When assessing securities, it is necessary to consider their type and distinguish between bonds as debt securities and stocks as securities reflecting participation in business. Bonds usually have a passive character, while stocks are dynamic and depend on business management. Current legislation on the bankruptcy procedure of an individual maximally takes into account the interests of the debtor, providing him and his family with funds for existence (Levshyna, 2020). Moreover, the need for housing for further active debt repayment is taken into account. Also, the status of the debtor, his role as a breadwinner or the only able-bodied person in the family, and the presence of incapacitated persons who are dependent on him are taken into account. However, from an ethical point of view, it is advisable to consider the level of demand for assets that are to be included in the liquidation estate. At the present stage, a number

of studies on the state of the bankruptcy procedure have been conducted in Ukraine. For example, an analysis was conducted by international expert Arne Engels, a lawyer from Germany, with national experts: Oleksandr Biriukov, Doctor of Law, Professor of Taras Shevchenko National University of Kyiv, and Roman Chumak, a lawyer, managing partner of the law firm "ARES" (Lukashuk, 2019). This analysis was carried out within the framework of the implementation of a new Bankruptcy Code in Ukraine. The analysis considered both legal aspects and the economic evaluation of bankruptcy procedures for individuals that were introduced in Ukraine.

Special attention should be paid to the consequences of bankruptcy for an individual. Firstly, this includes entering a person into the register of dishonest creditors. Secondly, the debtor will be prohibited from opening their own business or another legal entity for 3-5 years. Thirdly, they will not be able to take positions that involve a certain level of financial responsibility. The resolution of these issues depends on the arbitration manager, who must carefully examine the debtor's financial situation and credit history and provide recommendations for the debtor's further activities. Personal characteristics of the individual should be taken into account, as a person cannot be deprived of the right to normal functioning if they have become a victim of fraud or made financial mistakes due to insufficient information. A different case is a person who tries to avoid work and lives on borrowed money (Zhukova, 2019).

Thus, bankruptcy of an individual is an important mechanism for protecting their rights in the financial sphere in case of insolvency. This process allows individuals to change their financial status, avoid further financial difficulties, and address issues of debt repayment to creditors. Understanding the procedures and conditions of individual bankruptcy is important to ensure financial stability and health of citizens.

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## SPECIFICS OF BANKRUPTCY OF JOINT-STOCK COMPANIES IN UKRAINE

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# ENGLISH PROFESSIONAL TERMINOLOGY IN THE PROFESSIONAL ACTIVITY OF ENVIRONMENTAL DEFENDERS

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The problem of environmental protection has always been relevant and significant not only in Ukraine, but also in the countries of Europe and even the whole world. Currently, in our country the issue of preserving natural resources which suffer from military operations on the territory of Ukraine is acute. Undoubtedly, the great problem of clearing the fields, forests and rivers will be faced by the people of the country after the end of the war. For more than two years, Ukraine has suffered great losses in many regions, such as the destruction of the Kakhovka Dam, the pollution of rivers in the Kharkiv region after a missile hit. And these are only isolated cases, the number of which, unfortunately, is only increasing. Therefore, in our opinion, high-quality environmental education should be one of the most important directions of the state's development in the post-war period.

The training of highly qualified ecologists is a strategically important task that requires the maximum use of scientific achievements, new approaches to the planning of the educational, scientific-methodical and educational process, bringing the methods, means and forms of education in accordance with the demands of modernity with the aim of becoming a creative personality ready for the project activities, with an arsenal of necessary competencies, in particular professional, general, integral and program learning outcomes; that is, with formed professional qualities, abilities, properties that will be used and improved in the future in the process of professional activity (Saienko & Osipenko, 2021).

The relevance of environmental education in English is determined by the challenges of modernity, in the context of which the working language is

considered as a common legal instrument for solving urgent environmental problems that do not have administrative boundaries. The development of the noospheric worldview contributes to the idea of globalization of education, the process of interaction of national education systems, universalization of standards, characteristics and parameters of the global education system. This is a long and difficult path, which requires the expansion of communications, including exchange programs for students, teachers and scientists, where the need to know the professional English language is not in doubt (Dudar & Co, 2022).

That is why it is highly recommended to pay special attention to the development of professional skills of future ecologists who will face the consequences of the war on the ground and in the water and will have to find the solution and the way how to cope with them. So it is important to learn the experience of foreign countries in this sphere. Knowing of professional terminology will help with understanding the information given on foreign Internet resources and in scientific journals. Professional exchange of information, knowledge and skills will be of great importance and help for our country on our way to peaceful life. Suffice to say that good specialists in the sphere of ecological protection will be especially in need as the ecology of Ukraine is suffering severely now but good specialists and citizens of our country will do their best to restore the country.

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# A MODERN APPROACH OF UNDERSTANDING LEGAL AWARANESS PROBLEM

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In scientific publications of the late 20th - early 21st centuries you can also see a wide range of views on the essence of legal consciousness. At that time, leading philosophers and lawyers formulated a position according to which the very existence and development of the legal state should be based on an individual endowed with specific properties. The legal personality is beginning to be considered as an ideal type of personality that supports the rule of law.

The problem of legal identity and legal awareness found its reflection in the theoretical developments of Ukrainian scientists of the beginning of the 20th century — in the works of philosophers, political scientists, and constitutional scientists, one of whom was Bohdan Oleksandrovych Kistyakivskyi (Kalinovskiy, 2010).

The expression "cultural person" can be considered a terminological analogue to the modern term "legal personality" in the author's works. Speaking about the rule of law, B.O. Kistiakivsky identifies it with "cultural humanity that lives in a cultural union." The scientist considered the means of achieving this unity: the inviolability of the person (the state's duty to the person); implementation of the right to people's representation; solidarity of the authorities and solidarity of the nation; a person's participation in law-making and state management. Works of B.O. Kistiakivskyi acquired a particularly relevant sound in connection with the state-building processes in independent Ukraine.

The content of legal awareness is determined by the conditions for the formation of thinking about social reality as a legal one, by the perception of the phenomenon of law in society as such.

This process is largely influenced by legal ideas, which include awareness of law, sense of law, legal ideal, and legal reality.

A modern Ukrainian specialist in the field of philosophy of law Yu. Kalinovsky believes that legal awareness is a set of "...evaluative opinions and guidelines that determine the attitude of the subjects of social relations (social groups, individuals or society as a whole) to the law and current legislation, as well as practice its application to legal (or non-legal) customs, value orientations that regulate human behavior and communication in legally significant intersubjective situations... The constants and values of legal consciousness are an axiological-normative field of freedom within which social subjects of different levels act"(Kalinovskiy, 2010). In my opinion, this understanding of legal consciousness most successfully characterizes people's attitude to law in the modern conditions of building a democratic state based on the provision of natural human rights.

The system of legal concepts produced by this society has a significant impact on the content of legal awareness. These include concepts that characterize the structural properties of law (right, obligation, legal norm, legal requirement, legal status, etc.), functional properties of law, legal assessment, legal regulation, law-making, legal education, etc.), as well as concepts which reflect the value properties of law (freedom, justice, equality, public good, legality, responsibility, etc.).

Legal consciousness is a complex systemic entity that contains various elements that make up its structure, consideration of which is important in connection with the changes that have befallen modern legal reality. The breaking of established stereotypes in philosophical and legal science, the radical reformation of the legislative framework became the factors that changed the very idea of the elements of legal awareness. The number of elements of legal consciousness and their interrelationship are treated ambiguously by different authors. This issue is debatable even today.

Thus, some authors single out legal ideology as elements of legal consciousness ("a systematized scientific expression of legal views, principles, requirements of society, classes, various social groups and strata of the population") and legal psychology ("a set of legal feelings, value attitudes, attitudes, wishes and

experiences characteristic of the entire society as a whole or a specific social group") (Alais, 2003).

Other researchers imagine legal consciousness as a more complex system that includes rational, emotional, informational, evaluative and volitional elements.

The prescriptive-behavioral component of legal awareness consists of legal guidelines and corresponding stereotypes of behavior, which contribute to the translation of ideas and values into the plane of practical implementation. The legal behavior of the subjects shows the real content of their legal awareness. As a result, in the structure of legal awareness, it is advisable to highlight behavioral components, which include legal guidelines, which in their totality constitute the value orientation of subjects and readiness for activities in the field of legal regulation.

Legal guidance and legal behavior exist in an organic unity, their stable stereotypes are a mandatory element of the legal consciousness of an individual, social group or society as a whole. All considered elements of legal consciousness are relatively independent and at the same time interconnected, tightly intertwined, forming a specific integrity — legal consciousness.

The nature of legal knowledge and ideas, values and beliefs, emotional states and psychological feelings, positions and guidelines, prevailing patterns of legal behavior determine the content of the legal consciousness of members of society.

Thus, legal awareness is a set of legal ideas, feelings, convictions, assessments that express the attitude of individuals, social groups, society as a whole to the law, to the behavior of people in the field of legal regulation. It has a complex internal structure and sense-making character, therefore it allows to know and understand the legal reality more fully and objectively.

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## LEGAL MECHANISMS FOR ENSURING HUMAN RIGHTS DURING MARTIAL LAW

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Currently, a state of martial law has been introduced in Ukraine due to Russian aggression, and accordingly, due to the realities of today, the preservation of a person’s life and health, honor and dignity, inviolability, which are provided for directly in the Constitution of Ukraine, are the highest social value in the state. Accordingly, the relevance of the researched topic lies in the urgent need to resolve legal issues that arise during martial law. In such conditions, human rights and freedoms are often violated, and there is a threat to the life and dignity of individuals, in particular the civilian population. The development of effective legal mechanisms is critical to ensuring the protection of human rights under martial law.

International law establishes standards and principles aimed at protecting civilians in armed conflict, including the right to life, personal integrity, access to medical care and other fundamental rights. Domestic legislation also provides mechanisms for the protection of citizens' rights during martial law, in particular through authorized persons and courts. The effective operation of these mechanisms plays a decisive role in preventing human rights violations, ensuring justice and restoring peace and stability in post-conflict conditions. Therefore, it is important to pay due attention to the development and maintenance of legal mechanisms aimed at the protection of human rights during martial law, which are of crucial importance for

ensuring the dignity, safety and protection of all persons in the conflict zone. (Tolkachova, 2022).

Ensuring human rights and freedoms means creating conditions that allow individuals to enjoy their rights and freedoms. This includes three main areas of state activity: promoting the active realization of human rights and freedoms (in particular, through the creation of general social guarantees); prevention of offences (including legal measures) and protection of rights and freedoms in cases of their violation by any subject (Prieshkina, 2017). According to Art. 55 of the Constitution of Ukraine, rights and freedoms of a person and a citizen are protected by the court, that is, everyone is guaranteed the protection of rights and freedoms in court (Constitution of Ukraine, 1996). Provisions of Art. 64 of the Constitution of Ukraine and Art. 26 of the Law of Ukraine "On the Legal Regime of Martial Law" guarantees the right to protect one's rights and freedoms in a court of law under the conditions of martial law (On the Legal Regime of Emergency, 2000).

The introduction of a special legal regime, such as martial law, can pose a threat to basic human rights and freedoms (Markovych, 2023). Accordingly, the introduction of such a state leads to specific restrictions on the life activities of citizens (Doroshenko, 2023). However, it is important to note that the legislation of Ukraine provides for measures and guarantees aimed at protecting human rights under martial law. But in the current legislation, a significant gap was found in detailing the mechanism of limiting the constitutional right to freedom of thought and speech, as well as the expression of views and beliefs. The problematic issue is important, since the absence of clear norms and control mechanisms can lead to violations of human rights and freedoms, as well as to the spread of misinformation and a negative impact on public opinion (Slavna, 2022).

Unlike other aspects of legal regulation, which have a clear legal basis, mechanisms for controlling the content of information through mass media and the Internet remain underdeveloped. Accordingly, it can lead to the spread of unverified information or even such information that negatively affects society. The expediency of intensifying the work of authorized persons who are responsible for monitoring the

content of information is highly justified. They must have sufficient authority and resources to effectively perform their duties. The activation of control over mass media and the Internet will contribute to ensuring the security of the information space, protecting public opinion from manipulation and disinformation, as well as strengthening democratic principles in society.

This initiative requires careful analysis and coordination with all interested parties, taking into account the interests of citizens and the principles of freedom of speech and access to information. It is important to ensure a balance between the protection of human rights to freedom of expression and the need to ensure the security of the information space and protect society from harmful influence.

In addition, it should be noted that the absence of clear norms in the legislation of Ukraine regarding the limitation of constitutional human rights may lead to violations of rights and freedoms. To solve these issues, you should follow Art. 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which, according to the Basic Law, is part of national legislation (the Convention for the Protection of Human Rights and Fundamental Freedoms, 1950). It is important to intensify control over the dissemination of information through mass media and the Internet in order to avoid the spread of unreliable information that can harm life, health, and national security. The right to access public information is guaranteed by both national and international legislation. Such information can be important for the prevention of criminal offenses and threats to national security.

In connection with the threat to the national security of Ukraine, some information services have stopped their work or work with limited access due to the introduction of martial law. The temporary suspension of state registries and databases is a limitation provided for in such conditions. However, untimely informing the population can have negative consequences. Therefore, information managers should constantly update and replenish information on official resources and social networks.

Therefore, legal mechanisms for ensuring human rights during martial law are extremely important for ensuring the dignity, safety and protection of all persons who

are in the conflict zone. Mechanisms not only set standards for the protection of human rights in the context of military conflict, but also ensure access to justice and monitoring of rights violations. Ensuring compliance with these mechanisms plays a key role in preventing human rights abuses, reducing civilian suffering and restoring peace and stability in post-conflict settings. Thus, when making decisions, the state must be guided by the principle of the rule of law, which is fundamental to a democratic system, and also ensure a legal balance when limiting constitutional rights and freedoms of a person. This is necessary in order to prevent restrictions on the rights and legitimate interests of citizens.

Therefore, it is important to continue to develop and support these mechanisms aimed at protecting human rights even in the most difficult conditions of martial law.

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## FREEDOM OF SPEECH IN THE INVESTIGATION OF WAR PROPAGANDA

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War propaganda is a complex criminal phenomenon that requires a detailed understanding of its nature for effective investigation. Information campaigns aimed at propagandizing war are often transnational in nature, involving several countries in their activities. This necessitates close cooperation between law enforcement. Investigators face numerous difficulties in their investigations, including the problem of distinguishing between freedom of speech and information containing war propaganda. War propaganda is a part of information warfare, used as a strategy to manipulate opinion and cause certain reactions among the population. In the present conditions, this method is one of the most effective tools for manipulating the mass consciousness, capable of not only spreading disinformation among the people of Ukraine, but also undermining the achievements and values that unite us (Budko, 2017).

In the context of socio-political life, the process of recognizing and studying propaganda in the media space in detail is becoming increasingly important. This includes analyzing public statements in interviews, social media posts, and content on streaming services. Since the beginning of the full-scale aggression conducted by the Russian Federation against Ukraine, information warfare has become an integral component aimed at manipulating and using information to achieve a competitive advantage over the enemy (Prytula, 2015).

During the fight against war propaganda, the category of "socially dangerous information" was introduced. This implies that in situations where the dissemination of a certain type of information material may pose a threat to public and state order, restrictions on such information may be imposed. The main task is to find a balance between protecting human rights to access and disseminate information and ensuring security and protecting the interests of society as a whole. Socially dangerous information is any information and/or data that can cause significant damage to the legitimate rights, freedoms and interests of a person, society or the state through psychological influence, and the responsibility for the creation and circulation of which is provided for by law (Pekar, 2017).

As already mentioned, one of the challenges of investigating war propaganda is to determine the point at which restrictions on freedom of speech become appropriate and justified in terms of public security. On the one hand, in accordance with the principles enshrined in the Constitution of Ukraine, the state is obliged to ensure the freedom of collection, storage, use and dissemination of information by citizens, as well as to protect private data. On the other hand, the state is obliged to create conditions that protect people from the harmful effects of certain types of information, the dissemination of which may harm the rights and interests of individuals and society as a whole.

Freedom of speech, as enshrined in the Constitution of Ukraine and enshrined in various international norms, is a key principle of democracy. According to Article 34 of the Constitution, everyone has the right to freedom of thought and speech, including the right to freely express their views and to collect, store, use and disseminate information in any way they choose. The exercise of these rights may be restricted by law in the interests of national security, territorial integrity or public order, in order to prevent disorder or crime, to protect public health, to protect the reputation or rights of others, to prevent the disclosure of information received in confidence, or to maintain the authority and impartiality of the judiciary (Varava, 2018).

Although freedom of speech is a key element of a democratic society, it is not an unlimited category. There are certain situations and restrictions imposed to ensure public order, protect other members of society from harm, and protect the rights and dignity of individuals. The purpose of these restrictions is to ensure that freedom of speech contributes to a healthy dialogue, exchange of ideas and progress of society, but at the same time to prevent its use for abuse, propaganda of ideas of hatred, aggression, etc.

Thus, there is a need for a reasoned approach to imposing restrictions on freedom of speech to ensure the progress of society and protect the rights and interests of all its participants. Establishing restrictions on war propaganda is critical for maintaining peace and security of the state. Such actions are aimed at preventing conflicts and reducing the risks of manipulating public opinion.

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## PUBLIC AUTHORITIES IN ENSURING SOCIAL GUARANTEES FOR MILITARY PERSONNEL

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As of today, in the context of rapid European integration, there is an urgent issue of interaction between public authorities in the exercise of their legal powers. Thus, on 23 June 2022, the European Parliament, by its Resolution (Candidate, 2022), granted Ukraine but not exclusively, the status of a candidate for the European

Union, which necessitates the fulfilment of clearly established criteria for compliance with the EU member. Among such criteria there is a political one, which provides for proper political stability and functioning of the system of checks and balances.

In general, the doctrine of separation of powers, which theoretically substantiated the need to organise and exercise state power based on its division into legislative, executive, and judicial branches, is aimed primarily at ensuring political freedom in society, in particular, human rights and freedoms. (Tkachuk, 2012) The Fundamental Law emphasises in its provisions the need for the separation of powers and the exercise by each of its branches of a mandatory range of powers. However, in this case, it is also important to coordinate the actions of the supreme public authorities in terms of each specific issue, because in its absence our state will always face the problem of ineffective decisions designed to protect human and civil rights and freedoms.

In the course of the history of independent Ukraine, a confident course has been formed to develop the military industry, improve the financial situation of the Armed Forces of Ukraine and other military formations. Since 2014, when the aggressor country began its first actions to violate Ukraine's sovereignty and territorial integrity, many laws and regulations have been adopted to provide social security for the military and their families. In addition, the Ukrainian legislator pays special attention to the pension provision of military personnel.

Therefor, among these changes there was the amendment to Article 43 of the Law of Ukraine "On Pension Provision for Persons Discharged from Military Service and Some Other Persons", which states: "The maximum amount of a pension ... may not exceed ten subsistence minimums established for persons who have lost their ability to work. Temporarily, until 31 December 2017, the maximum amount of a pension ... may not exceed UAH 10740." (On Pensions, 2022)

By the decision of the Constitutional Court of Ukraine dated 20 December 2016 in case No. 1-38/2016, the provisions of part 7 of Article 43 in the Law of Ukraine "On Pension Provision for Persons Discharged from Military Service and Certain Other Persons" were declared inconsistent with the Constitution of Ukraine

(unconstitutional). In support of its legal position, the Court stated the following: "The Constitutional Court of Ukraine considers that the norms-principles of part 5 of Article 17 in the Constitution of Ukraine regarding the state's provision of social protection to Ukrainian citizens serving in the Armed Forces of Ukraine and other military formations, as well as to members of their families, are a priority and unconditional. In other words, measures aimed at ensuring social protection of this category of persons by the state, due to, inter alia, economic expediency, socio-economic circumstances, cannot be cancelled or narrowed." (In the case, 2016)

So, it is worth noting that the Constitutional Court of Ukraine determined and enshrined in its Decision back in 2016 that social security (protection) of servicemen cannot be restricted to certain limits, narrowed, or cancelled.

Prior to that, as of the date of the above provision recognition as unconstitutional, the Law of Ukraine "On Measures to Legislatively Ensure the Reform of the Pension System" contained a provision, namely, Part 2, which stated, in particular, that: "The maximum amount of pensions ... appointed (recalculated) in accordance with ... the Law of Ukraine "On Pensions for Persons Discharged from Military Service and Some Other Persons" ... may not exceed ten subsistence minimums established for persons who have lost their ability to work. Temporarily, until 31 December 2017, the maximum amount of pension ... in accordance with ... the Law of Ukraine "On Pension Provision for Persons Discharged from Military Service and Some Other Persons" ... may not exceed UAH 10740." (On measures, 2011)

That is, it should be noted that when the Constitutional Court of Ukraine considered the issue of the impossibility of reducing payments to servicemen and their families, the current legislation of Ukraine contained duplicate provisions. Moreover, one of these provisions was found to be inconsistent with the Constitution of Ukraine (Article 43 of the Law of Ukraine "On Pensions for Persons Discharged from Military Service and Some Other Persons"), while the other (Article 2 of the Law of Ukraine "On Measures to Legislatively Ensure the Reform of the Pension System") continued to be "constitutional".

It was only on 12 October 2022 that the Constitutional Court of Ukraine, in its Decision in case No. 3-102/2021 (231/21, 415/21), declared the provisions of Article 2 in the Law of Ukraine "On Measures to Legislatively Ensure the Reform of the Pension System" unconstitutional. (In the case, 2022) That is, the legislative provision limiting the social security of servicemen, which was declared unconstitutional by the Decision of the Constitutional Court of Ukraine, remained in force for another 6 years, during which Ukraine was in a full-scale war for almost 8 months.

In addition, as it is well known, based on the general theory of law and the provisions of the Constitution of Ukraine, namely its Article 152, paragraph 2: "Laws, other acts or their individual provisions declared unconstitutional shall cease to be effective from the date of the decision of the Constitutional Court of Ukraine on their unconstitutionality, unless otherwise provided by the decision itself, but not earlier than the day of its adoption".

However, the provisions on limitation of pension and social benefits, which were declared unconstitutional by the CCU Decision of 20 December 2016 in case No. 1-38/2016, continued to be binding in the context of another legislative act until they were declared unconstitutional by the CCU Decision of 12 October 2022 in case No. 3-102/2021 (231/21, 415/21). Today all legal relations regulated by the relevant legislative acts that arose from 21.12.2016 to 11.10.2022 must be interpreted by administrative courts in favour of the state due to the impossibility of retroactive of the Decisions of the CCU.

This analysis leads to the conclusion that there is a lack of coordination between the constitutional judiciary and the legislature, which is manifested in the actual effectiveness of the provision declared unconstitutional. This problem is related to the legislator's inadequate attitude to the CCU's legal positions, and, as a result, the admission of gross gaps in legislation.

Courts of administrative jurisdiction, in particular the Supreme Administrative Court of Cassation (SACC), whose decisions are precedent setting, are obliged to resolve a dispute by either adhering to the principle of legality or the principle of

reasonableness and fairness. For example, in the SACC Resolution of 21.06.2023 in case No. 600/3213/22-a (Resolution, 2023), the court applied the provisions and conclusion of the CCU expressed in the Decision of 12 October 2022 in case No. 3-102/2021 (231/21, 415/21) to legal relations that arose before the Constitutional Court of Ukraine issued its Decision, without violating the rights and freedoms of a citizen-soldier. In turn, in this interpretation, the Court deviated from the provisions of the Constitution of Ukraine, which stipulates that CCU decisions cannot enter into force before the date of their adoption.

To sum up, it is worth emphasising that interaction of the highest public authorities is the basis for the functioning of law in a social and democratic country, which should be based on a consistent approach to the uniform regulation and interpretation of social relations.

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## INTERNATIONAL STANDARDS OF LOCAL SELF-GOVERNMENT AND ASPECTS OF THEIR IMPLEMENTATION IN UKRAINE

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In Ukraine today, where local governance plays a crucial role within the public administration framework, the application of international legal standards in this domain has garnered considerable attention among legal scholars and researchers. This interest is driven primarily by the nation's strategic decision to pursue European integration, underscoring the necessity to align national laws with European norms. Furthermore, the emphasis on bolstering democratic values within local communities highlights the significance of these international standards for local self-governance.

It should be noted that in our country, there exists a vast array of individual legal norms that, to varying extents, embody international legal standards in the realm of local self-governance. Predominantly, these norms are enshrined in international

treaties signed and ratified by Ukraine, including conventions, declarations, or other documents that establish universally accepted principles and frameworks for the organization and operation of local self-government. Additionally, there are several norms that indirectly influence these relationships by upholding human and citizen rights, general principles of democratic governance, and so forth. (Petryshyn, O.V., Petryshyn O.O. (2016)).

Among the key international legal documents that establish such standards are the European Charter of Local Self-Government (1985), the International Covenant on Civil and Political Rights (1966), the Universal Declaration on Local Self-Government, and the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities (1980).

Currently, Ukraine is in the process of reforming its administrative sector and is actively pursuing decentralization, making international standards a central part of the local self-government development strategy.

The recognition of local self-government development as one of the priority directions of state policy within the framework of European integration processes, and Ukraine's ratification of the European Charter of Local Self-Government and its Additional Protocol, necessitate progressive steps towards supporting local self-governance. This includes ensuring its compliance with international legal standards of municipal democracy, expanding the range and improving the mechanism for protecting the municipal rights of individuals, and qualitatively transforming the system of governmental relations at the regional and local levels of territorial power organization. The reform of the local self-government system requires a more complete alignment of national legislation with the principles of the European Charter of Local Self-Government (Petryshyn O.O. (2014)).

It's important to acknowledge that the European Charter of Local Self-Government outlines standards for safeguarding the rights and freedoms of citizens within local governance bodies, ensuring transparent property ownership structures and sound financial management of local budgets. Additionally, it guarantees the autonomy of local governance bodies in their interactions with local executive

authorities. Implementing progressive models of societal and governmental progress necessitates a well-developed regulatory framework in this domain. This framework should delineate clear responsibilities, foster equilibrium, and prevent conflicts and authoritarian tendencies within governing institutions. Such an approach is in line with the political tenets of democracy, social equity, and the rule of law in Ukraine.

In addition to the above, it is worth noting that the implementation of international legal standards of local democracy into national legislation during the reform of local self-government in Ukraine is influenced by several negative factors, including:

1) stagnation in the development of local self-government at the level of territorial communities after the adoption of the Constitution of Ukraine and corresponding regulatory acts on local self-government, as the material and financial base of territorial communities could not adequately support all the powers of local self-government.

2) failure of local self-government to provide functional support for a conducive living environment necessary for comprehensive human development, self-realization, protection of rights, and provision of quality and accessible administrative and social services through sustainable community development.

3) deficiencies in the administrative-territorial structure, which resulted in defects in territorial governance (lack of a cohesive territory for administrative-territorial units at the base level; inclusion of village, town, or city territorial communities within another territorial community or on the territory of another administrative-territorial unit, territorial communities of districts within cities).

4) conflictual relations between public authorities at the local level, specifically between local self-government bodies and local executive authorities, among others. (Remenyak O. (2019)).

The implementation of international standards of local self-government in Ukraine not only formalizes Ukraine's commitments to the international community but also brings significant positive changes for the country, its citizens, and the governance system as a whole.

The practical application of international standards of local self-government contributes to increased transparency and accountability of local authorities, as well as the creation of mechanisms for interaction between local government and citizens. These standards define principles of democracy, citizen participation, and openness in decision-making processes that affect the comfort of daily life. This, in turn, leads to growing trust of the local population in local self-government bodies and enhances the efficiency of governance structures. Therefore, the implementation of international standards of local self-government in Ukraine is a crucial factor in improving the quality of life for citizens, strengthening democracy, ensuring sustainable development for the country, and demonstrating Ukraine's commitments to the international community.

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## OVERVIEW OF THE EUROPEAN UNION ESG REPORTING REGULATIONS

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Given the surging climate issues and climate awareness among citizens, non-government institutions and governments, climate policy has become an important stream of both national and supranational policymaking. One of the drivers and pillars of this policymaking is a regulatory framework focused on environmental, social and governance (ESG).

ESG is the abbreviation of Environmental, social, and governance. The Cambridge Dictionary (Cambridge Advanced Learner's Dictionary & Thesaurus, n.d.) defines it as a set of policies that consider the effects on the environment and on society of how a business operates. In a nutshell, ESG is a framework for assessing the sustainability and ethical impact of the company or investment. These policies are shaped by ESG regulations – the binding rules enacted by governmental authorities. Over the past decade, the number of ESG regulations surged by 155% (ESG Book, 2023). Further growth is expected in the future, given the quest for more effective and transparent ways to drive capital to sustainable businesses and outcomes.

These conference abstracts contain a discrete overview of the ESG regulatory framework enacted in the European Union (the 'EU'), which understanding is crucial for Ukrainian scholars because of the process of accession to the European Union.

In December 2019, the European Commission presented the European Green Deal, a strategy for reshaping the EU economy to a sustainable economic model, achieving net zero greenhouse gas emissions (or 'climate neutrality'). The ultimate

objective is for the EU to reach climate neutrality by 2050. The European Green Deal will have an impact on all businesses in Europe since all products sold in the EU will need to meet higher sustainability standards.

The European Green Deal is supported by key policies formalized, in particularly, but not limited, in three legislative documents forming the ESG regulatory framework – Commission Delegated Regulation (EU) 2023/363 of 31 October 2022 amending and correcting the regulatory technical standards laid down in Delegated Regulation (EU) 2022/1288 as regards the content and presentation of information in relation to disclosures in pre-contractual documents and periodic reports for financial products investing in environmentally sustainable economic activities (the 'Sustainable Finance Disclosure Regulation' or 'SFDR'), the Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (the 'Corporate Sustainability Reporting Directive' or 'CSRD'), and Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (the 'Taxonomy Regulation'). They aim to improve private sector transparency and accountability around ESG impacts and risks to promote sustainable economic growth and investment in the EU.

SFDR, applicable since 1 January 2023, lays down harmonized transparency rules for financial market participants and financial advisers on how they integrate environmental, social and good governance factors into their investment decisions and financial advice and on their overall and product-related sustainability ambition. The Regulation aims to limit greenwashing where financial products are marketed as sustainable or climate-friendly but in practice either the quality of these products or the degree of financial business' commitment to sustainability or their involvement in climate-friendly activities do not satisfy those standards.

The document draws a distinct demarcation between external sustainability risks, categorized as environmental, social, or governance (ESG) events or

conditions, which possess the potential to yield tangible or prospective adverse effects on the valuation of an investment, and adverse impacts on sustainability factors, denoting negative externalities about ESG conditions. Additionally, the Regulation elucidates the conceivable positive sustainability effects associated with investment activities.

Transparency at the entity level, encompassing financial market participants and financial advisers, mandates the public disclosure on their websites of information delineating the consideration of negative externalities inherent in their business models. This includes a comprehensive account of the principal adverse impacts arising from investment decisions or financial advice on ESG sustainability. Alternatively, these entities are required to furnish information justifying the absence of such negative impacts. Furthermore, the websites must provide insight into the integration of sustainability risks into the entities' investment decision-making processes and financial advice, along with an exposition of remuneration policies aligned with the incorporation of sustainability risks.

In the context of financial product transparency, the Regulation acknowledges the development of sustainable financial products with varying degrees of ambition. To address this diversity, it distinguishes between transparency requirements for financial products that endorse environmental or social characteristics and those aiming to generate a positive impact on the environment and society. Both categories of financial products are obligated to elucidate how their ESG sustainability goals are to be achieved in pre-contractual financial product-related documents and document the actualization of these goals in periodic financial product-related documents.

Moreover, all financial products are required to specify in pre-contractual documents how sustainability risks are incorporated into investment decisions and delineate the potential impact on the profitability of an investment. Analogous rules apply to financial advisers, necessitating them to provide information on how their financial products consider principal adverse impacts on sustainability matters, if applicable, and the methodologies employed for such considerations.

On 5 January 2023, the entrance into force of CSRD signified a transformative phase in the regulatory landscape, enhancing and modernizing the stipulations of the disclosure of social and environmental information by corporations. The ambit of mandatory sustainability reporting has been expanded to encompass a wider array of large enterprises and listed (a company whose shares can be traded on a country's main stock market) small and medium-sized enterprises. Furthermore, certain non-European Union entities will be compelled to report if their market activities yield revenues exceeding EUR 150 million within the EU market.

This regulatory overhaul is designed to furnish investors and other stakeholders with comprehensive access to pertinent information, facilitating an informed evaluation of the societal and environmental impact of corporate entities. Simultaneously, it enables investors to assess the financial implications, both risks and opportunities, arising from factors such as climate change and other dimensions of sustainability. A consequential outcome of the CSRD is the prospective reduction of reporting costs for companies in the medium to long term, achieved through the standardization of information disclosure requirements.

The inaugural application of these novel regulations is slated for the 2024 financial year, with reports mandated to be published in 2025. Entities falling under the purview of the CSRD are obligated to adhere to the European Sustainability Reporting Standards (ESRS), conceived in draft form by the European Financial Reporting Advisory Group (EFRAG), an autonomous entity that convenes diverse stakeholders. The initial iteration of ESRS was officially promulgated in the Official Journal on the 22nd of December 2023, through the mechanism of a delegated regulation. These standards, applicable across various sectors, are intricately aligned with EU policies while concurrently contributing to and building upon international standardization initiatives.

In addition to reporting requirements, the CSRD mandates the provision of assurance on the sustainability information disclosed by companies and introduces a digital taxonomy for organizing and presenting sustainability information.

The European Union Taxonomy Regulation functions as a systematic classification framework, delineating a roster of economic activities deemed 'sustainable,' and assumes a pivotal role in facilitating the amplification of sustainable investments, in consonance with the imperatives outlined in the European Green Deal.

The primary objective of this taxonomy is to counteract greenwashing practices and provide investors with a discernible framework for selecting investments that align with environmental consciousness.

Although the Taxonomy Regulation has been effective since 2020, it imposed the obligation to publicly disclose how their turnover aligns with the taxonomy, signifying adherence to the Taxonomy Regulation criteria designating an economic activity as ‘green’ or ‘sustainable’ on large companies from 1 January 2023.

The described ESG regulations collectively aim to enhance private sector transparency and accountability regarding environmental, social, and governance impacts and risks. By mandating comprehensive disclosures in pre-contractual and periodic reports, these documents seek to guide investors toward sustainable investments while mitigating the risk of greenwashing. Additionally, the CSRD's expanded scope of mandatory sustainability reporting and introduction of European Sustainability Reporting Standards (ESRS) aims to provide stakeholders with accessible information for evaluating the societal, environmental, and financial implications of corporate activities.

It is crucial for Ukrainian legal scholars to study and understand these regulations and underlying principles and regulatory patterns, given the ongoing process of accession to the European Union. This understanding is paramount to ensure alignment with EU standards and facilitate the integration of Ukrainian legislation with EU regulations, thus enhancing the country's preparedness for EU membership.

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## THE ESCALATING PERIL: AN EXPLORATION OF DEEPFAKES AS AN IMMINENT THREAT TO POLITICAL FIGURES' PERSONAL BRANDS AND POLITICAL SECURITY IN THE ABSENCE OF ROBUST AI REGULATIONS

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With the spread of new technologies, complex areas of science, such as political studies, jurisprudence, and communication strategy, have faced an extended range of challenges that need a fast and straightforward solution. Through intricate

algorithms of artificial intelligence (AI), *deepfakes*—manipulated media content—pose substantial risks towards the personal brands and political safeness of those in power. Crafting deceptions, including audio or visual clips, wield AI to flawlessly meld people's faces with pre-existing film or concoct fake content. As these deepfakes' quality advances upwardly, professionals apt at discernment struggle to identify genuine from tampered media. Crafted with malice, such creations spread swiftly via social media networks and wrench significant havoc upon a politician's brand notoriety, just mere instances post-spreading. Complementarily, lacking overarching mandates for AI control accentuates dilemmas by muddling humorous versus adversarial versus craftily planned attacks aimed to topple persons in authority; in other words, the whole diapason of notions distinguishes *misinformation, disinformation and mal-information* (Filimowicz, 2022, p.2). This complexity further complicates the formulation of effective legislative measures to address the threat posed by deepfakes, highlighting the pressing need for interdisciplinary collaboration between political science and jurisprudence to devise strategies for preventing or mitigating the harm caused by these deceptive technologies.

While numerous scholarly inquiries have delved into the implications of deepfakes across various fields, including politics and cybersecurity, a significant gap remains in research that rigorously examines the perilous connection between deepfakes, political figures' personal brands, and the broader landscape of political security (Chesney & Citron, 2019, p. 1758). Current scholarly discussions primarily revolve around the technical aspects of deepfake technology, such as detection algorithms and countermeasures through deep learning techniques (Sabah, 2022). However, there is a dearth of comprehensive analysis of the profound socio-political ramifications of deepfakes, particularly their potential to undermine the reputations and integrity of political figures. This gap underscores the novelty and significance of our research. By comprehensively exploring the broader socio-political implications of deepfakes, with a specific focus on their detrimental effects on the personal brands of political figures and the overall fabric of political security, we aim to shed light on

the complex interplay between deepfake technology and the socio-political environment.

The diapason of the deepfakes` topics and targets can be almost unlimited. The political figures they aim to address often possess very complex personal brands with several lines of dimension. First, determining what the current paper's personal brand means is necessary. The *personal brand of a politician*, particularly a national leader or a high-ranking politician, refers to the public image, reputation, and perception that they cultivate and project to constituents, fellow politicians, and the wider public. It encompasses their values, beliefs, leadership style, communication skills, accomplishments, and overall demeanour, collectively shaping how others perceive and remember them (Bennett et al., 2019, pp. 259–260). The personal brand of a politician is of paramount importance for the political system they operate within, especially in the context of national leadership or high-profile political roles. When comparing the impact of a deepfake on a personal brand with that of a rumour or gossip, a notable disparity emerges, highlighting the unique challenges deepfakes pose. Unlike rumours or gossip, deepfakes possess a deceptive quality that can engender higher trust, exceptionally when crafted with superior quality to convincingly mimic the targeted politician's appearance, voice, and mannerisms. Moreover, deepfakes require relatively less effort and fewer resources for dissemination than political rumours, which often necessitate time to propagate. A well-executed deepfake video depicting a politician engaged in inappropriate behaviour, ranging from fabricated offensive speeches to publicly accessible intimate images, coupled with the anonymity afforded by social media platforms and an understanding of network algorithms, can swiftly erode the credibility and reputation painstakingly built by a political figure over decades. In recent years, different high-ranking politicians and social activists have become victims of porn deepfakes (Maddocks, 2020, p. 415). In some cases, we witness governments becoming concerned about the impact of deepfakes about celebrities on societal stability, providing a plot for new changes to legislation and creating statutory limitations (Peukert et al., 2022, pp. 175–176). Consequently, deepfakes present a formidable

challenge for public relations officers and teams, exacerbated by the complete absence or minimal legislative regulations governing their proliferation. This raises pertinent questions about t he appropriate strategies for managing deepfakes and how the response to such incidents can further impact the integrity of the damaged personal brand. In essence, navigating the treacherous terrain of deepfakes necessitates proactive measures and strategic responses to safeguard the reputation and credibility of political figures in an increasingly complex media landscape.

The current study endeavours to transcend the prevailing technical-centric discourse surrounding deepfakes, pivoting towards a more holistic examination of their ramifications within political communication, laws and governance. By illuminating the intricate dynamics underpinning the propagation and reception of deepfakes within political contexts, this research aspires to furnish policymakers, scholars, and stakeholders with an analytical framework for comprehensively grappling with the emergent challenges posed by this disruptive technological phenomenon.

Here are the main research gaps and the possible outcomes of the detailed study of deepfakes' influence on personal brands:

*Enhanced Understanding.* By examining the impact of deepfakes on the personal brands of political figures, it is possible to enrich the comprehension of specialists in political science, law, communication technologies, defence, and state security of the potential repercussions stemming from AI manipulation within the political sphere.

*Risk Mitigation.* By delineating the boundaries delineating AI usage for comedic purposes, oppositional expression within the laws regarding freedom of speech, and deliberate brand defamation, further research aims to assist policymakers in crafting regulatory frameworks and guidelines to mitigate the risks associated with deepfake proliferation.

*Recovery Strategies.* The study aims to provide practical insights into the strategies that political figures can adopt to quickly and effectively restore their tarnished brands after a deepfake attack. It also suggests the necessity of introducing

new laws. This will offer tangible guidance for affected individuals and their support teams, contributing to developing effective response mechanisms in the face of deepfake threats.

*Awareness and Education.* By shedding light on the perils posed by deepfakes and their ramifications for political security, this research initiative aspires to cultivate heightened public awareness and foster informed discourse, empowering individuals to make informed decisions regarding this emergent technological threat.

In conclusion, the proliferation of deepfakes poses a pressing threat to prominent figures' personal brands and political security in the absence of stringent AI regulations. As these sophisticated manipulations become increasingly indistinguishable from reality, the potential for reputational damage and destabilisation of political systems grows ever more acute. Urgent action is imperative to address this burgeoning challenge and safeguard the integrity of democratic processes and public trust in political leadership.

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## THE ROLE OF INTERGOVERNMENTAL FISCAL RELATIONS AT THE STAGE OF COMPLETING THE DECENTRALIZATION REFORM

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The decentralization reform launched in Ukraine in 2014 aims to create an effective system of local self-government and territorial organization of power. One of the key areas of this reform is ensuring the financial self-sufficiency of local budgets by transferring greater budgetary powers and resources to the local level.

Intergovernmental fiscal relations regulate the distribution of revenues and expenditures between different levels of the budgetary system, as well as the principles of functioning of the intergovernmental transfer system. Effective resolution of issues related to intergovernmental fiscal relations is critical to ensuring adequate financial resources for regions and communities in the context of decentralization of powers.

Currently, there are certain problems in the sphere of intergovernmental fiscal relations in Ukraine, including the imperfection of the horizontal and vertical equalization systems for budget revenues, irrational distribution of expenditure powers, insufficient financial autonomy of local budgets, and others. Overcoming these challenges and developing effective ways to improve intergovernmental fiscal mechanisms should become a key priority at the final stage of the decentralization reform.

Intergovernmental fiscal relations play a crucial role at the final stage of the decentralization reform in Ukraine, as they directly affect the financial capacity of local budgets and the effectiveness of the new territorial system of public authority.

First, the optimal establishment of intergovernmental fiscal relations is critically important to ensure sufficient financial resources for newly formed territorial communities to fulfil their powers (Zabrotska, 2010). The modern model of intergovernmental transfers should create effective incentives for increasing own revenues of local budgets and their rational use.

Second, through the improvement of intergovernmental fiscal mechanisms, it is necessary to achieve proper equalization of financial capacities across all territories (Blankart, 2000). This will help overcome regional disparities in access to public services and contribute to balanced local development.

Third, decentralization requires a clear delineation of expenditure powers between the state and local budgets (Piontko, 2015). The corresponding reform of intergovernmental fiscal relations should become a tool for eliminating the duplication of functions and ensuring the independence of local self-government bodies in determining expenditure priorities.

Overall, intergovernmental fiscal relations play a leading role in shaping a new model of financial relations between central and local authorities based on the principles of subsidiarity, financial self-sufficiency of territories, and efficient use of budgetary funds in the decentralization process.

In other words, intergovernmental fiscal relations are a system-forming element of the state's budgetary system, the effectiveness of which largely determines the success of the decentralization reform in Ukraine. At the final stage of decentralization, it is necessary to carry out a comprehensive modernization of intergovernmental fiscal mechanisms to bring them in line with the new realities of functioning of territorial communities.

Key areas for improving intergovernmental fiscal relations should include: introducing an effective model of intergovernmental transfers that will ensure the balanced financial capacities of all territories; optimizing the distribution of

expenditure powers between budgets of different levels to avoid duplication and budgetary "gaps"; increasing the share of own revenues of local budgets by expanding their tax base; and strengthening the financial autonomy and independence of territorial communities in determining expenditure priorities.

Reforming intergovernmental fiscal relations on these principles will create a solid foundation for sustainable development of territories, improving the quality of public services for citizens, and achieving the main goal of decentralization - bringing power closer to the people. Therefore, the intergovernmental fiscal vector should become a key aspect in the final phase of the decentralization reform and the decentralization transformation of Ukraine as a whole.

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## CONDUCTING DOCUMENTARY AND ACTUAL TAX AUDITS IN THE CONDITIONS OF MARTIAL LAW: ANALYSIS OF ISSUES AND WAYS TO ADDRESS THEM

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The armed conflict and imposition of martial law on the territory of Ukraine have directly influenced Ukrainian legislation and the regulation of social relations across all spheres of the population's lives, including tax legislation and the conduct of tax control.

The declaration of martial law, as defined by the Law of Ukraine "On the Legal Regime of Martial Law" of May 12, 2015, No. 389-VIII, implemented in Ukraine through Presidential Decree No. 64/2022 from 05:30 on February 24, 2022, continuously extended due to the presence of armed aggression by the Russian Federation against Ukraine (Law of Ukraine “On the Legal Regime of Martial Law”, 2015, Decree of the President of Ukraine No. 64/2022, 2022).

The proclamation of martial law and Ukraine's direct involvement in the armed conflict, temporary occupation of certain territories and regions, have impacted the execution of tax control, particularly in conducting tax audits.

Significant amendments to the Tax Code of Ukraine (hereinafter referred to as the "TCU") pertain to tax and levy collection until the termination or abolition of martial law in Ukraine, as stipulated in paragraph 69 of subsection 10 of chapter XX "Transitional Provisions" of the TCU, introduced by the Law of Ukraine of May 12, 2022, No. 2260-IX. According to this, tax audits are not conducted and ongoing audits are suspended, except for cases of desk audits, factual audits, and documentary unscheduled audits (specifically defined) (Tax Code of Ukraine, 2011).

Additionally, subsection 69.2 of subsection 10 of chapter XX "Transitional Provisions" of the TCU underwent changes in accordance with Laws No. 2260-IX of May 12, 2022, No. 2290-IX of May 31, 2022, No. 3219-IX of June 30, 2023, and No. 2719-IX of November 3, 2022 (Tax Code of Ukraine, 2011).

In the latest edition of the TCU, regarding the conduct of documentary and factual audits (according to amendments introduced by Law No. 2719-IX of November 3, 2022), it is established that such audits during the period of martial law, temporarily until its cancellation or termination, are carried out by supervisory authorities provided there are safe conditions for their conduct (Tax Code of Ukraine, 2011).

Considering the analysis of this provision, it can be concluded that safe conditions in this case include: 1) safe access and admission to territories, premises, or other property used for economic activities, taxed objects, profit-related activities, associated with other objects of taxation of such taxpayers; 2) safe access and

admission to documents related to financial and economic activities, income receipt, and other information contained in documents related to the calculation and payment of taxes, levies, payments, compliance with legislative requirements, monitoring entrusted to supervisory authorities, as well as financial and statistical reporting in the manner and on the grounds determined by law; 3) conducting inventory related to fixed assets, inventory of goods and materials, cash withdrawals. As of now, the aforementioned conditions for audits are exhaustive (Tax Code of Ukraine, 2011).

However, analyzing paragraph 5 of subsection 69.22 of subsection 10 of the aforementioned chapter of the Tax Code of Ukraine, it can be concluded that audits that have been initiated (resumed) but cannot be completed due to the absence of safe conditions (the elaboration of "but cannot be completed due to the circumstances specified in this subparagraph" in paragraph 5 of subsection 69.2 of chapter XX "Transitional Provisions" of the Tax Code of Ukraine is not provided, but based on the analysis of the provision, it can be concluded that it refers to the absence of safe conditions for access and admission to objects, premises, property, documents, and conducting inventories), in such cases, the audit is suspended under the following conditions:

1) based on a reasoned application of the taxpayer;

2) until the circumstances (lack of safe conditions) are resolved and/or obstacles to conducting the audit are removed;

3) by the decision of the head or deputy head or authorized person of the supervisory authority;

4) the decision of the aforementioned subjects is formalized by a corresponding order, a copy of which is sent to the taxpayer's electronic office with simultaneous sending to the taxpayer's email address(es) information about the type of document, date, and time of its sending to the electronic office (Tax Code of Ukraine, 2011).

However, the Tax Code of Ukraine does not define the concept of "safe conditions" explicitly. Therefore, the indeterminacy of the term "safe conditions" does not correspond to the principle of legal certainty since there is no clear detailing of safety criteria. Depending on the regions and districts within Ukraine, the intensity

of combat operations varies, directly affecting living conditions and economic activities in these regions. For instance, in western regions of Ukraine, the military threat is relatively moderate compared to eastern regions, as the shelling of regions, flight times of missiles and other long-range weapons, as well as air defense, are not uniform across all regions of Ukraine. Therefore, "safe conditions" themselves are not identical.

Moreover, the term "safe" is an evaluative category and may be subjective in this case. Legal uncertainty regarding the concept of "safe conditions" may lead to the emergence of corruption risks concerning the conduct of documentary and factual audits, as the decision to suspend them is made by the head or deputy head, or an authorized person of the supervisory authority.

Unfortunately, domestic tax legislation does not provide a detailed algorithm for suspending audits, which may entail certain risks for authorized subjects of supervisory authorities, especially in unforeseen circumstances, for example, in case of air alerts or shelling in the audit area. It is logical to assume that in such a case, the audit should be suspended to ensure the safety and health of individuals in the combat zone. However, as already noted, according to the norms of the Tax Code of Ukraine, the audit is suspended based on the submitted reasoned application of the taxpayer and the decision of the head or deputy head, or an authorized person of the supervisory authority, a copy of which must be sent to the taxpayer in due course. In turn, the preparation of such an order and the necessary actions for its dispatch take time, which may be significant for ensuring the safety and health of individuals during such audits.

Therefore, it is advisable to develop Methodological Recommendations on the procedure for conducting tax audits during martial law, where a clear algorithm for suspending audits would be defined, with the aim of fully ensuring the safety and health of individuals during their conduct, as well as providing clarification on the concept of "safe conditions" to avoid legal uncertainty and corruption risks.

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## THE CONCEPT OF “WHISTLEBLOWER” UNDER THE EUROPEAN UNION LEGISLATION IN HISTORICAL ASPECT

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According to Transparency International's Corruption Perceptions Index, Ukraine scored 36 points out of 100 in 2023 and ranked 104th among 180 countries, compared to 33 points and 116th place in 2022, which indicates an improvement in the situation in 2023 (Transparency International Ukraine [TI Ukraine], 2024). It is

commonly believed that there is no corruption in European states or other democratic countries. However, this is not entirely true - corruption exists in all countries without exception, but with varying intensity. Given that the world's democratic regimes began their fight against corruption long before Ukraine gained independence, significant progress has already been made at the international level to reduce the level of corruption and its manifestations in the social and political life of the country.

One of the key aspects of the effective fight against corruption is the timely reporting to law enforcement agencies of an illegal act committed by whistleblowers, among others. Representatives of the scientific community, international experts and practitioners have made a long way in their efforts to formulate the concept of the legal status of whistleblowers. The study of the process of forming approaches to understanding the concept of a whistleblower will help to identify general trends, contradictions and gaps in a particular approach, which will contribute to the formation of consistent and effective standards and recommendations. The aforementioned makes the study of this issue relevant.

The first official reports on exposing corruption were published in the mid-20th century (Ruggero Scaturro / International Anti-Corruption Academy [IACA], 2018; TI Ukraine, 2019). At that time, there was neither the concept of a whistleblower, nor a mechanism for protecting whistleblowers at both the national and international levels. The United States was the first to embark on the path of fighting corruption, and the development of whistleblower laws in the late 20th century which influenced the adoption of similar laws in Europe (Schultz & Harutyunyan, 2015).

Representatives of the academic community have expressed different opinions on who a whistleblower is and how a person who reports a violation of the law should be treated. For example, in 1971, R. Nader described a "whistleblower" as a man or woman who, believing that the public interest overrides the interest of the organization he/she serves, blows the whistle that the organization is involved in corrupt, illegal, fraudulent, or harmful activity (Nader, 1972, as cited in Ruggero Scaturro / IACA, 2018). J. P. Near and M. P. Miceli note that whistleblowing is a complex process by which members of an organization (former or present) disclose

information about irregularities or illegal practices (of which the employer is aware) to persons or organizations that may take action in this regard (Near & Miceli, 1985, as cited in Kobron-Gasiorowska, 2022). R. Johnson describes whistleblowing as a form of dissent that entails four characteristics. First, it is an individual act to make information public. Second, the information is disclosed to some party outside an organization who makes it public and a part of a public record. Third, the information disclosed has to do with some non-trivial wrongdoing within that organization. Finally, the person making the disclosure is a member of that organization and not a journalist or general member of the public. In short, a whistle-blower is a person who exposes a wrongdoing within an organization (Johnson, 2003, as cited in Schultz & Harutyunyan, 2015). Analyzing the approach outlined by R. Johnson, D. Schultz and K. Harutyunyan note that it does not cover all aspects of whistleblowing, as it does not take into account the aspect of practice related to reporting and correcting corruption. In their work, they offer the definition of whistleblowing characterizing it as the actions of a person in an organization who discloses information in order to report and correct corruption, and also provide two more features in addition to the characteristics of R. Johnson: 1) a whistleblower is a person primarily motivated by the desire to expose a wrongdoing, which excludes cases when disclosure is primarily an act of revenge or is made simply to embarrass another, or cases of disclosure only or exclusively for economic gain; 2) a person who reports a violation does so as a last resort when internal procedures in the organization do not prevent the violation; whistleblowing is an alternative - it is another channel that can be used to report misconduct when internal reporting chains or structures make it impossible or difficult to otherwise report or correct misconduct (Schultz & Harutyunyan, 2015).

The realization of the important role whistleblowers can play in the timely and effective fight against corruption has prompted the international community to develop and implement in practice legislative norms that would enshrine, among other things, the status of a person who discloses violations. It is worth noting that the first international acts in the European Union (hereinafter referred to as the EU) on combating corruption did not contain the concept of a whistleblower, but instead used

the following terms in the 1999 Convention - "witness" and "collaborator of justice" (understood as those who report criminal offenses defined in the Convention or otherwise cooperate with the investigation and prosecution authorities) (Criminal Law Convention on Corruption, 1999); in the 2003 Convention - "reporting persons", i.e. any persons who report in good faith and on reasonable grounds to the competent authorities any facts relating to offenses under this Convention (United Nations Convention against Corruption, 2003).

In 2006, Resolution Parliamentary Assembly №1507 (2006) indirectly mentioned whistleblowers when the Assembly called on the member states of the Council of Europe to ensure that laws governing state secrets protect whistleblowers, i.e. persons who disclose illegal activities of public authorities, from possible disciplinary or criminal sanctions . It is worth noting that the content of this Resolution, as well as the proposal №11269 of 23.04.2007 submitted by Mr. Bartumeu Cassany (2007), indicates that more than ten years ago, whistleblowing was associated only with illegal activities of public bodies, leaving out the private sector, yet the illegal activities reported by the whistleblower were considered to be related not only to corruption, but also to any illegal actions by the authorities.

Such actions at the level of the Council of Europe led to the first fundamental study on the protection of whistleblowers' rights (hereinafter referred to as the report) conducted in 2009 by the Minister of the Committee on Legal Affairs and Human Rights of the Council of Europe Pieter Omtzigt, which initially became the impetus for initiating the process of consolidating the provisions on the legal status of whistleblowers at the national level in the Member States, and ultimately indirectly led to the adoption of EU Directive 2019/1937 of 23.10.2019 on the protection of whistleblowers on infringements of Union law. As stated in the report, the main purpose of the report is to convey to the European community that whistleblowing is a positive act aimed at stopping a serious problem, and a whistleblower is not a traitor, but a brave person who prefers to take action against the abuses he or she faces instead of taking the easy way out and remaining silent (Pieter Omtzigt / Committee on Legal Affairs and Human Rights, 2009). In other words, as of 2009,

one of the most urgent issues was to create a positive perception of whistleblowers in order to spread this phenomenon in the future and thus fight corruption more effectively. Although the report mainly focused on the aspects of whistleblower protection, the theses presented reflect the understanding of the concept of a whistleblower by members of the highest intergovernmental organizations at that time. Thus, the analysis of the report shows that a whistleblower was understood as a person who acted in good faith, usually in the public interest and without direct personal interest, with sufficient grounds, and was interested in stopping wrongdoings of all kinds, including corruption and abuse, in both the public and private sectors. The report also emphasized the need to distinguish between the concepts of "whistleblower" and "witness," in particular, given that whistleblowing measures are designed primarily to prevent or correct abuses at an early stage and that it is from the moment a person discloses information that he or she should be granted the status of a whistleblower and have all the protections that come with that status. However, the report noted that within the EU there was no common analog to the English term "whistleblower" and there was no generally accepted definition of the term.

The 2013 study conducted by Mark Worth with the assistance of Transparency International, pointed out that in many EU member states, the difficulty of translating the term "whistleblower" into other languages led to problems in the public perception of whistleblowers. “For example, in the EU, citizens and the media still widely use alternative terms such as "informant," "whistleblower," and "snitch." Journalists in some non-English-speaking countries simply use the term "whistleblower" for lack of a better alternative” (Worth, 2015, as cited in Schultz & Harutyunyan, 2015). In other words, while in 2013, a positive perception of whistleblowers and understanding of their role in building democratic socio-political regimes was already firmly established at the level of states and international organizations, at the level of society, there was still a paradigm according to which a whistleblower was perceived negatively - as a traitor who acts for certain personal

motives to harm others. This dichotomy demonstrates the complexity and ambivalence of perceptions of the role of whistleblowers in society at that time.

In 2014, the Council of Europe in its Recommendation CM/Rec (2014)7 provided the definition of the term "whistleblower" identifying this person as somebody who reports or discloses information about a threat or harm to the public interest in the context of their employment, both in the public and private sectors (Committee of Ministers of the Council of Europe, 2014). It is worth noting that the ECHR judgments issued as of 2014 also did not state that the term "whistleblower" also covers persons who are not in an employment relationship with the employer against whom the whistleblowing is made, and the 1999 Civil Law Convention on Corruption generally stated that only one category of persons has the "right to report" – employees (Ruggero Scaturro / IACA, 2018). At the same time, in para. II.4 of the Annex to Recommendation CM/Rec (2014)7, the Council of Europe recommended that "the national system should also include persons whose employment has ended and possibly not yet begun, where information about a threat or harm to the public interest has been obtained during the recruitment process or at another stage of pre-contractual negotiations" (Committee of Ministers of the Council of Europe, 2014). This approach demonstrated the gradual improvement and adaptation of legislation to the really wide range of situations in which a person may disclose information about violations or threats to the public interest, which contributed to the creation of a more effective and comprehensive whistleblower protection system in the EU.

In the 2015 Report of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (UN General Assembly Resolution A/70/361), it was noted that a whistleblower should be considered as a person who discloses information that, in his or her reasonable opinion at the time of disclosure is true and poses a threat or harm to specific public interests, such as violation of national or international law, abuse of power, waste, fraud or harm to the environment, public health or public safety (Ruggero Scaturro / IACA, 2018). At the same time, the requirement to have an employment relationship was seen as a restriction, i.e. an artificial obstacle to the exercise of the right to freedom of

expression and the right to information. This approach supports the idea that whistleblowers have the right to act regardless of their employment and that their activities contribute to the development of transparency, the fight against corruption and the protection of human rights.

Until 2019, there was no legislation at the EU level that defined the legal status of whistleblowers. But everything changed with the adoption of Directive (EU) 2019/1937 of 23.10.2019 on the protection of whistleblowers (hereinafter referred to as the Directive). This Directive created a framework for regulating the legal status of whistleblowers both at the EU level and at the level of Member States, which had to implement it in national legislation. The Directive does not use the term "whistleblower" but rather the term "reporting person", which means an individual who reports or publicly discloses information about violations in the context of his or her employment (Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, 2019). As stated in Art. 4 of the Directive, it applies to whistleblowers working in the private or public sector who have received information about a work-related whistleblowing, including at least persons who have the employee status, including civil servants; persons who are self-employed; shareholders and persons belonging to the administrative, management or supervisory body of an enterprise, including non-executive members, as well as volunteers and paid or unpaid interns; any persons working under the supervision of a The Directive also applies to: 1) persons who report or publicly disclose whistleblowing information obtained in the context of an employment relationship that has since been terminated; 2) whistleblowers whose employment relationship has not yet commenced where the whistleblowing information was obtained during the recruitment process or other pre-contractual negotiations. Thus, when adopting this Directive, the European Parliament and the Council took into account the proposals and conclusions set out in recommendations, scientific papers, analytical reports, court practice, etc. regarding the content of the concept of "reporting person" (which can actually be considered synonymous with the concept of "whistleblower"), in particular, in terms of refusing

to limit the category of persons who can report illegal acts to those who are in an employment relationship with the organization/person/etc. in respect of which such a report is submitted. Despite the significant expansion of the personal scope of the Directive, its material scope is relatively narrow, as it applies only to violations of the EU law or to the areas of the EU competence (public procurement, consumer protection, violations that harm financial interests). This is seen as a drawback of the legal approach used in the Directive, as the Directive should ensure that a potential whistleblower is not afraid to report a violation simply because he or she is not sure whether the violation falls within or outside the EU law (Kiššová, 2021).

Thus, the analysis of the way the concept of "whistleblower" has been defined in the EU in historical aspect shows that both science and practice have insisted that the concept of "whistleblower" should be formulated broadly enough in its essential features to cover all persons with legal regulation (primarily with regard to whistleblower protection), who report violations in the public and private sectors related, in particular, to finance, corruption, procurement, etc., and the criteria of employment, good faith of the whistleblower, and lack of material interest are secondary and cannot categorically affect the granting of the whistleblower status without taking into account other circumstances.

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# PROTECTION OF HUMAN RIGHTS IN TIMES OF WAR

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War is a huge tragedy for all of humanity, as it causes widespread destruction and numerous civilian casualties, as well as serious human rights violations. The aggravation of such situations has not only got a direct physical impact on people's lives, but also leads to profound social, economic and psychological consequences. Such events leave a lasting mark on the history of societies, affecting the future of generations.

In times of war, the risk of violations of fundamental human rights and freedoms increases, which makes it imperative to strictly comply with international humanitarian law. To protect civilians and parties to the conflict, a set of principles has been developed to minimize the consequences of armed hostilities. The principle of non-discrimination guarantees that all persons, regardless of their identity, have the same right to protection. Ensuring the right to life implies an absolute prohibition on murder, torture, and other forms of ill-treatment. At the same time, the protection of civilians prohibits targeted attacks on persons not involved in hostilities and requires access to humanitarian aid. The principle of the right to liberty and security of person requires that any detention be justified and guarantees the right to a fair trial. Particular attention is paid to the protection of the rights of children, who should be provided with additional protection and assistance, given their vulnerability (Kamenchuk, 2022).

However, most often during the war, such fundamental human rights as the right to life are violated. This is demonstrated through acts of intentional murders, physical injuries, kidnappings in occupied areas, forced displacement, torture, inhuman treatment, sexual violence and other forms of cruelty that constitute gross violations not only of the right to life, but also of dignity and physical integrity. The right to health is also frequently violated, expressed in the lack of access to medical

care and the negative impact on health due to war-related injuries and conditions. Additional violations include the destruction or damage to property, resulting in the loss of housing or the ability to evacuate from the occupied territories, affecting the provision of basic human needs. Children, as a particularly sensitive category, suffer violations of their rights in the form of family separation, loss of access to education and healthcare, which is a critical issue that requires special attention and protection in the context of armed conflict (Visit Ukraine - RULES OF SAFE VISIT TO UKRAINE, 2023).

The right to life, enshrined in Article 3 of the Universal Declaration of Human Rights, states that everyone has the inherent right to life, liberty and security of person. The International Covenant on Civil and Political Rights of 1966 in its Article 6 emphasizes that the right to life is a fundamental right of every person that must be protected by law and prohibits the arbitrary deprivation of life. According to Article 27 of the Constitution of Ukraine, everyone has the inalienable right to life, and no one shall be arbitrarily deprived of life, obliging the state to protect the lives of citizens and to provide them with the opportunity to protect their life and health, as well as the life and health of others from unlawful encroachments (Rabinovych et al., 2022).

In the context of international law, there is no indisputable rule that would oblige the parallel application of international humanitarian law and international human rights law during armed conflicts. However, based on the decisions of the International Court of Justice, General Assembly resolutions and reports of the UN Commission on Human Rights, international practice recognizes the need for their simultaneous application, where international humanitarian law acts as lex specialis in relation to international human rights law (Chulinda & Slutska, 2022).

Thus, in the context of armed conflicts, legal relations arising from the protection of the right to life are primarily governed by international humanitarian law, which extends its security to protected persons: the wounded, sick, prisoners of war, civilians and others who are not directly involved or have ceased to be directly involved in hostilities. Among the key normative documents in this area are the

Geneva Conventions of 1949 and their Additional Protocols, the Hague Conventions of 1907, customary international law, and others.

In times of war, the right to life is often threatened, and decisions of international and national courts on ensuring this right during armed conflicts do not always contribute to its unambiguous protection. In particular, such decisions may cause resistance on the part of states to participate in international human rights mechanisms, which indicates the need to optimize the existing mechanisms for protecting the right to life.

The European Court of Human Rights (ECHR) did not consider cases where the reason for derogating from the right to life would be "due to legitimate military actions". Analysis of cases of exclusively necessary use of force requires taking into account the proportionality of the force to the specific situation, the goals the state seeks to achieve, the possibility of using alternative less dangerous means, and measures taken by the state to minimize risks (Chulinda & Slutska, 2022).

The state's obligation to protect the right to life must remain valid even in times of armed conflict. Although international treaties allow states to deviate from some obligations during emergencies, they categorically exclude the possibility of derogating from the right to life.

In the context of changes in the European Court after military actions, in particular the Russian invasion of Ukraine, the Court and the Council of Europe face challenges that affect their activities. The ECHR should define a strategy regarding the large number of pending cases against the Russian Federation, which requires effective resolution and quick decision-making.

The ECHR, having the broadest practice of protecting the right to life, does not directly apply the norms of international humanitarian law, but involves their provisions to assess the legality of deprivation of life, introducing the elements of proportionality and absolute necessity into the assessment criteria. This underlines the Court's desire to strengthen the protection of the right to life as a fundamental right of every person.

Thus, the analysis of human rights in the context of war demonstrates that armed conflicts create serious challenges for providing and protecting fundamental rights and freedoms. International normative acts, in particular the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, as well as the Constitution of Ukraine, define the right to life as an inalienable right of every person, which emphasizes its fundamental nature. The decisions of international courts, as well as the practice of the ECHR confirm the need to protect this right even in the most difficult conditions of war and armed conflicts.

The need to adapt and improve the existing mechanisms for the protection of human rights, including the right to life, in the light of modern challenges is obvious. The UN Human Rights Committee and other international organizations continue to work on the development and refinement of protection standards, taking into account the specifics of military conflicts.

Given the unchanging importance of human rights, even in times of war, states have an obligation not to violate these rights and to ensure their protection. Effective national mechanisms of legal protection, as well as the possibility of applying to the ECHR in case of violations, are key elements of guaranteeing the observance of human rights.

Changes in the practice of the ECHR, especially in the context of large-scale armed conflicts, such as the Russian invasion of Ukraine, require new approaches to the protection of human rights. Despite the limitations of the Court's ability to hear all cases, its role in protecting the right to life and other fundamental rights remains crucial.

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## THE IMPACT OF SENSATIONALIST JOURNALISM ON THE CRIMINAL JUSTICE PROCESS

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The modern information society is characterised by numerous contradictions, where news and information flows create a maelstrom of information events (Isaev & Vasilyeva, 2019). Among them, a special place is occupied by sensational journalism, oriented towards creating scandalous materials and exciting headlines. An important aspect of its impact is its influence on criminal proceedings. The study of this topic includes analysing the impact of sensational journalism on the criminal process in Ukraine using case studies and analysis of court practice.

Sensational journalism influences public opinion and judgement, an important aspect of the information space today. The bias of public opinion caused by sensational journalism distorts information and prevents objective perception. It also leads to aggravation of emotional reactions in the audience, which makes it difficult

to objectively assess events. Sensationalised journalism can put pressure on courts and influence the decisions of judges and juries. The mediatisation of trials often distorts their proper course, exposing them to external influences and public interest (Loja, 2022). This creates additional pressure on law enforcement agencies and courts, which can affect the criminal justice process. Strong public outrage caused by sensational headlines can lead to mass protests, jeopardising the safety of litigants. The media may disclose information prior to trial, hindering investigations and the search for the truth. As a result, media pressure increases the risk of erroneous judgements and injustice.

Violations of ethical standards and journalists' responsibilities in sensational journalism in Ukraine and other countries can distort the information discourse and jeopardize the fairness of trials and the rights and interests of those involved in criminal cases (Pysmenskyy, 2017). Sensational journalism poses ethical dilemmas, and journalists have a responsibility to create and disseminate information. Adherence to ethical standards is crucial, as breaches of these standards can have serious consequences for both journalists and society at large (Abbas & Khan, 2023).

Respecting the presumption of innocence in sensational journalism is a problem in criminal trials in Ukraine, as the dissemination of sensational news can make it difficult to comply with this principle of criminal law. The principle of presumption of innocence means that the accused is presumed innocent until proven guilty in a court of law (Wahyudi, Sujoko, & Ayub, 2022). However, sensationalist journalism can violate this principle by influencing and creating public prejudice.

The widespread dissemination of sensational news stories about crimes and defendants may predispose public opinion to the guilt of the defendant. For example, the publication of articles with photographs of the defendant may predispose the public to the guilt of the defendant. It can also influence witnesses and participants in a trial to change their testimony under public pressure.

Judge and jury bias can arise from media coverage of a case, which can compromise the neutrality of the court and the fairness of the trial (Bakhshay & Haney, 2018). Respecting the presumption of innocence is a key aspect of ensuring

the fairness of criminal trials, and sensationalist journalism must take this principle into account so as not to influence judicial decisions and guarantee fairness.

In order to preserve the presumption of innocence and ensure fairness in the judicial process, sensational journalism must strike a balance between freedom of expression and fairness in the judicial process. This balance involves important ethical and practical considerations. Freedom of expression is a fundamental right that allows journalists and the public to inform about events and express their views. However, special attention must be paid to sensationalist journalism, which often distorts facts and influences public opinion and judicial processes.

Judges must act independently and rely on evidence and the law to ensure fair judgments. Addressing this challenge requires active intervention by the government, the media, and the public. The balance between freedom of expression and fairness of justice is a complex challenge that requires the attention and involvement of all stakeholders. The aim is to preserve the integrity of judicial processes and to ensure access to information about criminal cases by the law and standards aimed at protecting the rights and interests of all participants.

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## FORMATION, PROBLEMS, AND CHALLENGES OF ADMINISTRATIVE-LEGAL REGULATION OF MIGRATION POLICY IN UKRAINE REGARDING FOREIGNERS AND STATELESS PERSONS

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The issue of implementing an effective migration policy for foreigners and stateless persons is of considerable relevance both globally and in Ukraine, in particular, today as migration flows continue to rise. The increasing number of migrants are forced to leave their homes due to a complex set of reasons driven by economic, political, and social factors. At the same time, the implementation of an effective migration policy, in turn, requires proper administrative-legal regulation of migration policy towards foreigners and stateless persons.

In this context, it should be noted that the formation of administrative-legal regulation of migration policy towards foreigners and stateless persons is carried out in the following directions:

- Regulation of legal migration (control over obtaining permission for temporary and permanent residence in Ukraine based on immigration permits, study, employment, family reunification with Ukrainian citizens);

- Regulation of counteracting illegal migration (a set of measures aimed at preventing, deterring, detecting, and stopping violations of migration law aimed at combating illegal migration);

- Regulation of legal measures aimed at protecting the rights of foreigners, stateless persons, refugees, and persons in need of additional protection, illegal migrants (the right to free legal assistance, a lawyer, an interpreter, including the challenge of governmental decisions, etc.);

- Regulation of international relations (concluding readmission agreements, combating illegal migration, cross-border cooperation to fight crime and terrorism, etc.).

- Regulation of the border regime (control over the order of entry into Ukraine; strengthening criminal responsibility for organizers of illegal migration channels, human trafficking, smuggling of persons across the state border of Ukraine, etc.) (Martyanova, 2023).

However, the current state of administrative-legal regulation of migration policy in Ukraine regarding foreigners and stateless persons is marked by imperfection, indicating the advisability of revising certain provisions.

For example, one of the problems that require legislative response is, first, the issue of regulating the functioning of the system of entities forming and implementing the state migration policy of Ukraine. The duplication of powers, which leads to the emergence of competency inconsistencies, as well as the lack of proper control and supervision over their activities and the low effectiveness of inter-subject interaction result in the poor quality of migration policy. In particular, there is a need for the unification of legislation regulating the activities of these entities, as well as the formation of program documents aimed at creating a unified mechanism for forming and implementing the state migration policy of Ukraine (Drakhokhrust, 2021). There is also a need for detailing the norms of legislation that define the activities of local state administrations (under martial law - military), which also have many powers in regulating migration, especially under the legal regime of martial law, as well as local self-government bodies (Bychay, 2023).

Secondly, intensive migration processes lead to overcrowding in special facilities for persons subject to administrative expulsion or deportation (Bortnik & Radeiko, 2020). As known, foreigners and stateless persons are placed in temporary

stay facilities based on a decision to place foreigners and stateless persons, who are illegally in Ukraine, in a temporary stay facility, the form of which is presented in the Instructions on the forced return and forced expulsion from Ukraine of foreigners and stateless persons, approved by the order of the Ministry of Internal Affairs of Ukraine, the Administration of the State Border Guard Service of Ukraine, the Security Service of Ukraine. The duration of stay is six months from the day of the actual detention of the person. In cases where it is impossible to identify the foreigner or stateless person, ensure forced expulsion or transfer according to international treaties of Ukraine on readmission within the specified period, or make a decision based on an application for recognition as a refugee or a person in need of additional protection in Ukraine, or a stateless person, the duration of stay for foreigners and stateless persons may be extended by another six months. Given this, the literature's proposal to introduce a system of advance notification of entry for citizens of "visa-free" countries in Ukraine deserves attention. This would increase state budget revenues through authorization fees (Drakhokhrust, 2021). These funds could significantly contribute to the further development of migration policy. Specifically, they could be directed towards improving the conditions of migrants and ensuring their rights. Moreover, such legislative innovations would strengthen control over foreigners who bypass the filters of consular institutions, especially regarding citizens of Russia, and also increase state budget revenues through authorization fees (Drakhokhrust, 2021).

Thirdly, the Strategy for the State Migration Policy of Ukraine for the period up to 2025 highlights the lack of repatriation programs for overseas Ukrainians, policies for the integration of foreign migrants into society, limited employment opportunities for foreigners who have obtained education in Ukraine, and problems with unregulated migration (On the approval of the Strategy for the State Migration Policy of Ukraine for the period up to 2025). Therefore, this Strategy does not meet the challenges of today as it does not take into account the prospects of post-war recovery. It is clear that after the war ends, migration flows of foreigners and stateless persons will accelerate. In this context, it seems appropriate to develop

recommendations for improving the country's migration policy, taking into account international experience.

Moreover, there has long been a need for the development and adoption of a legislative act that would regulate and detail the procedure for recognizing a person as stateless. The procedure for recognizing a person as stateless will provide people who do not have citizenship of any country and lack identity documents the opportunity to be officially recognized as stateless; to obtain a document proving their identity; to restore access to a full life and to all types of services; to exercise their rights and freedoms on the territory of Ukraine (Drakhokhrust, 2021). Such changes will have a positive impact on Ukraine's migration policy.

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## FORMATION AND DEVELOPMENT OF THE CATEGORY OF "EXPROPRIATION" IN THE CIVIL LAW OF EUROPEAN COUNTRIES

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A property right can be considered one of the pillars of civil law, the basis of human property freedom. A property right is an absolute proprietary right, which implies the exclusive dominance of the owner over the property and opposition to it by an unlimited number of obligated persons who have no right to violate it.

At the same time, a person may be deprived of his/her private property in certain cases, in particular, if it is necessary for public needs or for reasons of public necessity. This is often the case when, for certain infrastructure projects, the state or a territorial community needs a land plot for the construction of a certain facility, such as a highway, subway line, etc.

These social relations are regulated by the Civil Code of Ukraine and the Law of Ukraine "On Alienation of Privately Owned Land Plots and Other Real Estate Located Thereon for Public Needs or for Reasons of Public Importance" and other legislative acts.

These legislative acts do not contain such a term as expropriation, but they do provide for such procedures as "purchase" and "compulsory acquisition", which are similar to the expropriation procedure.

The common denominator of these legal mechanisms is their basis, i.e. the existence of a certain social need or the need for the state or territorial community, rather than an individual or legal entity, to have ownership of certain property.

The difference between these legal categories is in the property owner's will: in the case of purchase, the owner agrees to alienate the property in favor of the state and the territorial community and receives a fee agreed upon by the parties in exchange for his/her property, while in the case of compulsory acquisition, the owner does not agree to terminate his/her ownership of certain property, and such acquisition takes place based on a certain authorized public authority, and, as a rule, the former owner receives monetary compensation in exchange for the confiscated property.

For a deeper study of this issue, it is advisable to refer to the history of these relations and trace the dynamics of their formation.

Thus, in Ancient Greece, when property was seized, the owner was not provided with any guarantees, which was explained by the dual nature of land ownership: private property was considered to be derived from state property, and the state existed in the form of private property (Nakonechnyi, 2015, p. 14).

At the same time, in terms of the transfer of slaves for public needs, a mechanism close to purchase was used: they were purchased, that is, transferred for money, and not forcibly taken away (Nakonechnyi, 2015, p. 14).

In Ancient Rome, for some time, the right of the state to seize or purchase property was not established at the legislative level; such issues were mainly resolved based on individual agreements or separate governmental acts. Subsequently, with the adoption of the Code of Justinian, scholars note the introduction of norms that have similarities with the compulsory acquisition of property, namely the delimitation of the powers of city prefects and the emperor to acquire land and buildings depending on their value (Nakonechnyi, 2015, p. 15).

In the Middle Ages, the institution of purchase did not develop, since, as noted above, it was applied mainly to land plots, and in this era, there was no private land ownership, and accordingly, there were no prerequisites for a conflict of interest between public authorities and private individuals (Nakonechnyi, 2015, p. 17).

More thorough theoretical elaborations on the right of the state to acquire property for reasons of not only social necessity but also social expediency. The

scholar believed that the basis of such a right of the state was property being under the supreme power of the state, which he called “eminent domain”, but he emphasized the need for the state to compensate for the losses of those who lost their property. However, these theoretical elaborations should be more appropriately attributed to the category of acquisition rather than to the category of purchase (Nakonechnyi, 2015, p. 18).

An important stage in the formation of the institute of compulsory acquisition of property (which also had an impact on the formation of the institute of purchase) was the adoption of the Declaration of the Rights of Citizens of 1789, which proclaimed that property is sacred and inviolable, and that no one may be deprived of it except in accordance with the law and just compensation (Seryogin and others, pp. 69–70).

At the same time, effective protection of property rights was impossible without enshrining the purchase procedure in law. In this context, the adoption of the Law dated March 8, 1810, in France on the initiative of Napoleon I, which divided the expropriation procedure into 2 stages: administrative and judicial, is considered historic. The administrative part dealt with the public utility of the operation and the possibility of transferring property; the judicial stage provided for the compulsory acquisition of property with compensation to the evicted persons **in the absence of an amicable agreement** (Tifine, 2014).

In other words, the example of this law shows the interaction of the categories of compulsory acquisition and purchase in their modern sense, since it provided for the seizure of property by court decision only in the absence of a settlement agreement between the parties, which can be considered analogous to the concept of “purchase” in its modern sense.

The doctrine of expropriation in Germany developed in the same direction: the German Expropriation Act of 1847 provided for the possibility of expropriation only in the public interest **and only on condition of advance payment** (Nakonechnyi, 2015, p. 21).

The author of the Dutch Expropriation Act of 1851, a well-known public figure Thorbecke, considered three ways to determine compensation for property subject to expropriation: by a jury, a group of experts, or a court. When developing the expropriation procedure, the author rejected the possibility of determining compensation by a jury, as he believed that this would lead to arbitrariness. Instead, the author opted for a combination of the second and third options by choice: the decision will be made by the court, but only after mandatory consultation of a commission of experts (Sluysmans, 2016, p. 148).

The above historical facts make it possible to conclude that in the XIX century, the legislation of European countries introduced the concept of expropriation, which introduces legal mechanisms designed to minimize the damage caused to the owner by assessing the alienated property before paying compensation, etc., which served as the basis for the development of these social relations on such principles. This generally corresponds to the modern concept of such relations.

At the same time, based on the example of the development of legislation in European countries, one can trace the dynamics of its development from arbitrary seizure of property (as it was in Ancient Greece), without the development and application of detailed procedures, to the gradual development of theories of the relationship between public and private interests, the sufficiency of the grounds for expropriation, expropriation mechanisms with the distribution of powers of administrative and judicial bodies, mechanisms for assessing the amount of compensation, etc.

The perfection of legislative regulation of expropriation procedures is important, but even in the case of the introduction of developed legislation in this field, these relations may face numerous problems at the stage of law enforcement, since in such cases there is a conflict of public and private interests, and in this context, the judiciary plays an important role, which is designed to prevent any abuse and violation of the procedures established by law in this field, and to resolve this conflict of interest according to the letter and intent of the law, in compliance with the principles of civil law.

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## LEGAL REGULATION OF SPOUSAL MAINTENANCE: A COMPARATIVE ANALYSIS OF AUSTRALIAN AND UKRAINIAN LEGISLATION

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Spousal maintenance, also known as periodical payments, refers to an arrangement where one party in a marriage provides financial support to the other for a specified period. When one partner in a current or former marriage is unable to provide for themselves due to health issues or other circumstances, they may seek financial support from the other partner to ensure their well-being and living conditions.

Financial support can be provided by the other partner voluntarily or enforced by court order. The court might require one spouse to provide financial support to the other if the latter lacks sufficient income or assets to meet their reasonable needs and

cannot support themselves through employment. These reasonable needs are determined based on the standard of living maintained by the spouses during their marriage, rather than the poverty threshold.

In Australia, the issue of spousal maintenance is regulated by The Family Law Act 1975 ("FLA"), while in Ukraine, it is governed by the Family Code 2002. We will explore the similarities and differences in the legal regulation of spousal maintenance in both countries.

Article FLA 72 provides the right of spouse to maintenance. According to this article a party to a marriage is liable to maintain the other party, to the extent that the first-mentioned party is reasonably able to do so, if, and only if, that other party is unable to support herself or himself adequately whether:

(a) by reason of having the care and control of a child of the marriage who has not attained the age of 18 years;

(b) by reason of age or physical or mental incapacity for appropriate gainful employment; or

(c) for any other adequate reason having regard to any relevant matter referred to in subsection 75(2) (Family Law Act 1975 (Cth) s 72(1)).

The liability under subsection (1) of a bankrupt party to a marriage to maintain the other party may be satisfied, in whole or in part, by way of the transfer of vested bankruptcy property in relation to the bankrupt party if the court makes an order under this Part for the transfer (Family Law Act 1975 art. 72(2)).

In accordance with paragraphs 2, 3, 4 of Article 75 Family Code of Ukraine 2002 the right to maintenance (maintenance) belongs to the spouse that is unable to work, in need of financial support, as long as the other spouse can provide material support. The spouse who has reached retirement age as prescribed by law or is a disabled person of the 1st, 2nd or 3rd degree is considered to be unable to work. One of spouses is deemed to be in need of material support if his/her wage, earnings obtained from the use of his/her property and other incomes are insufficient to match minimum subsistence level as established by law (Family Code of Ukraine 2002 art. 75 (2-4)).

Thus, in Australia, spousal maintenance may be granted if one spouse is unable to adequately support themselves due to caring for a child under 18, age or physical/mental incapacity, or other valid reasons. The liability to provide maintenance can also be satisfied through the transfer of bankruptcy property. On the other hand, in Ukraine, spousal maintenance is granted to a spouse who cannot work and is in need of financial support, particularly if their income is insufficient to meet the minimum subsistence level as defined by law. The key difference lies in the specific criteria outlined in each country's legislation for granting spousal maintenance, but both aim to ensure financial support for spouses in need.

In Australia, when considering spousal maintenance, the court considers many issues outlined in section 74 of the Family Law Act. These include the age and health of each party, their income, property, and financial resources, as well as their capacity for employment. The court also considers whether either party has to care of a child under 18, their financial commitments, and their eligibility for any pensions or benefits. Additionally, the court assesses the standard of living during the marriage, the potential impact of maintenance on a party's ability to support themselves, and any contributions made by either party to the other's financial situation. Other factors considered include the duration of the marriage, the need to protect parenting roles, and any cohabitation arrangements. Ultimately, the court considers all relevant circumstances to ensure a fair and reasonable outcome (Family Law Act 1975 art. 75(2)).

Unlike the Family Law Act 1975 of Austria, the Family Code of Ukraine does not contain such a broadly defined range of issues that courts must take into account when awarding maintenance to the other spouse. We would like to note that in Australian law, such issues are clearly defined at the level of the code, while in Ukraine, as a rule, the issues to be taken into account when awarding maintenance are shaped by court practice, which is unstable and changes quite often.

The Family Code of Ukraine doesn't cover as many factors as the Family Law Act 1975 of Australia does when it comes to deciding on spousal maintenance. This is a problem because these factors need to be clearly defined in the law to make sure

decisions are fair and consistent. Clear legislative definition of specific grounds makes the judicial practice more stable, which better ensures the protection of the rights of individuals who require maintenance.

Besides, a progressive legislative approach is contained in the Australian code on urgent spousal maintenance cases. In accordance with article 77 of the Family Law Act 1975 of Australia where, in proceedings with respect to the maintenance of a party to a marriage, it appears to the court that the party is in immediate need of financial assistance, but it is not practicable in the circumstances to determine immediately what order, if any, should be made, the court may order the payment, pending the disposal of the proceedings, of such periodic sum or other sums as the court considers reasonable (Family Law Act 1975 art. 77).

In my opinion, the legislative approach contained in the Family Law Act 1975 on urgent spousal maintenance cases is appropriate. This allows the party in need of maintenance to receive the necessary financial support before a final court order is made, which in some cases is crusial. The Ukrainian Family Code and Ukrainian legislation in general do not contain a similar provision. However, given the length of time that court proceedings in Ukraine take, it would be appropriate to include such a provision in the legislation. In certain categories of court cases involving the interests of the plaintiff, the court could have the right to order the payment of a certain amount of money if the plaintiff is actually unable to wait for the completion of the trial and to ensure normal living conditions, especially if she/he is unable to work.

In general, it can be said that Australia has a fairly progressive legislative approach to spousal maintenance. Australian legislation clearly defines the criteria for granting spousal maintenance and also provides for the possibility of immediate financial assistance in case of need. The analysis of this experience can undoubtedly be useful for Ukraine, where spousal support legislation requires some improvements. Ukrainian laws currently do not provide for such clear criteria and the possibility of providing emergency financial assistance, but consideration of this issue could be the first step in improving judicial practice and ensuring the protection of the rights of persons in need of maintenance.

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## CERTAIN ISSUES OF ENFORCEMENT PROCEEDINGS UNDER MARTIAL LAW

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The enforcement of decisions after the start of the large-scale invasion of the Russian Federation became more difficult due to the occupation of a certain part of Ukraine and the significant deterioration of the economy.

Nearly 3.7 million people remain displaced in Ukraine, and nearly 6.5 million are refugees around the world, the International Organization for Migration said in a statement on 22.02.2024 (IOM, 2024).

Considering such a large number of displaced persons due to the war, it can be assumed that a certain portion of them is participants in enforcement processes.

Therefore, it is evident that either such individuals are beyond the jurisdiction of authorized persons to enforce decisions, or they do not have the objective capacity to fulfill their duties within the framework of executive proceedings. For example, if a person was a debtor but lost all his or her property and income because of the war, such a person objectively cannot satisfy the property claims of the creditor. The risk of non-compliance with the decision exists beyond the debtor's intent, yet it is practically inherent in almost every enforcement proceeding in Ukraine.

At the same time, despite the difficult conditions, Ukraine is trying to protect the population from excessive encumbrances in enforcement proceedings, which are excessive for martial law.

For example, on July 27, 2022, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Amendments to Certain Laws of Ukraine on the Activities of Private Enforcement Officers and the Enforcement of Court Decisions, Decisions of Other Bodies (Officials) during the Period of Martial Law". This law was adopted to ensure the legitimate interests of legal entities, constitutional rights, and freedoms under martial law, and to regulate certain issues of enforcement, including the prohibition of enforcement of the notary's executive inscription (Law of Ukraine "On Amendments to Certain Laws of Ukraine on the Activities of Private Enforcement Officers and the Enforcement of Court Decisions, Decisions of Other Bodies (Officials) during the Period of Martial Law", 2022).

Such prohibition is a result of considering the possibility of forgery or illegal acquisition of blanks for enforcement documents. Given the circumstances of the occupation of certain territories of Ukraine and the potential dishonest behavior of private notaries or executors, the execution of notarial enforcement documents posed a potential threat to the rights and interests of citizens in the long term.

Therefore, the key points of the mentioned law were: the prohibition of enforcement actions based on notarial enforcement documents and the possibility of suspending the activities of a private executor for 1 month if signs of gross violation of the legislation on enforcement were detected by the private executor during the execution of their professional duties. However, it is worth noting that these changes are effective only until the termination or revocation of the state of war and are not grounds for exempting the debtor from fulfilling their obligations.

Furthermore, changes (outlined in section 10-2 of Chapter XIII "Final and Transitional Provisions" of the Law of Ukraine "On Enforcement Proceedings") were made to the procedure for disposing of funds arrested by state or private executors to protect individual debtors. During the state of war, such individuals whose funds are under arrest may spend from their current account an amount not exceeding two minimum wages established by the law on the State Budget of Ukraine for the first of January of the current year, within one calendar month (Law of Ukraine "On Enforcement Proceedings", 2016).

Also, enforcement proceedings against pensions and scholarships are suspended (except for decisions on the recovery of alimony, compensation for harm caused by mutilation, other health damage, or death as a result of a criminal offense, and decisions where the debtors are citizens of the Russian Federation).

However, the legislator does not provide any guarantees or assistance to the creditor. The process of enforcing enforcement documents in "small cases" is halted. The problem lies in the fact that the execution deadlines of court decisions are prolonged, which contradicts the requirements of the Convention for the Protection of Human Rights and Fundamental Freedoms regarding the enforcement of a court decision within a reasonable period (European Court of Human Rights, "Hornsby v. Greece" 1997). In the European Court of Human Rights (ECHR) judgment in the case "Piven v. Ukraine," the court recognized prolonged non-enforcement of a court decision as a violation of the right to a fair trial. This case concerned the prolonged non-enforcement of a court decision regarding the collection of arrears for length-of-service payments to educational workers. The court also emphasized that a state body cannot refuse to pay a debt confirmed by a court decision citing lack of funds.

Analyzing the legislative amendments provided, the state effectively preserves the debtor's income by limiting the rights of the creditor (Gerbut V.S., Lazur Ya.V. & Shelever N.V., 2023). In other words, not only are the rights of the creditor violated by the mere fact of the debtor's failure to fulfill obligations voluntarily but now the enforcement process itself is practically frozen due to the described innovations. It should be noted separately that considering the mechanisms of debtor evasion from enforcement, the actual restoration of creditor rights becomes practically impossible. There are cases where debtors, even during the stage of legal disputes, fraudulently transfer all their property to relatives, quit their jobs (thus losing official income), and enter into the enforcement process without any assets subject to enforcement.

Thus, in combination with legislative innovations, it appears that within the enforcement proceedings, the debtor may not bear significant burdens at all. In other words, the debtor's life is practically unaffected by the obligation to satisfy the creditor's demands, and the tasks of enforcement proceedings become nearly

unattainable. These lenient measures, relative to debtors, significantly complicate the enforcement process and sometimes make it entirely impossible for a considerable period. As a result, the interests of the creditor suffer significantly, and given the strong inflation of the national currency, the full restoration of their property rights becomes unfeasible.

In conclusion, the enforcement of decisions in Ukraine following the large-scale invasion by the Russian Federation has been profoundly impacted by the occupation of Ukrainian territory and the subsequent economic deterioration. The substantial displacement of millions of people, both internally and internationally, due to the conflict further complicates enforcement proceedings, as many may be unable to fulfill their obligations as debtors.

To mitigate the challenges posed by these circumstances, legislative measures have been implemented, such as prohibiting certain enforcement actions during martial law and introducing safeguards for individual debtors, including restrictions on the disposal of arrested funds and temporary suspension of enforcement proceedings against certain categories of individuals. However, these measures have resulted in a situation where the rights of creditors are significantly compromised, as the enforcement process is effectively stalled, leading to prolonged delays in the satisfaction of their claims.

Moreover, loopholes in the enforcement system allow debtors to evade their obligations, rendering the restoration of creditor rights nearly impossible. Therefore, the leniency towards debtors exacerbates the already complex enforcement process, ultimately undermining the interests of creditors and impeding the full restoration of their property rights, particularly in the context of rampant inflation.

In essence, while legislative changes aim to address the challenges posed by the ongoing conflict and economic instability, they inadvertently favor debtors at the expense of creditors, rendering enforcement proceedings increasingly burdensome and sometimes unattainable. As a result, achieving justice and restoring property rights becomes a daunting task for creditors, exacerbating the broader socio-economic consequences of the conflict in Ukraine.

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## GENERAL CHARACTERISTICS OF SPECIAL PROCEDURES FOR CRIMINAL PROCEEDINGS

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During the pre-trial investigation, the authorized persons are guided by the rules regulated by the law, which in criminal science is called "criminal procedural form".

The criminal procedural form can be both unified and differentiated.

The unification of the criminal procedural form is characteristic of the Soviet period of procedural law development and is presented by the uniformity of forms and procedures. In fact, the peculiarities that arise during the pre-trial investigation are ignored and uniform rules such as uniform principles, uniform decisions, uniform means of investigation are implemented for all categories.

The opposite of the unification of the criminal procedural form is its differentiation (lat. Differentia - "difference, distinction"), which means division, dismemberment of something into separate disparate elements (Bilodid, 1971).

Differentiation of the criminal process is connected with the need to fulfill the tasks of criminal proceedings, improve the criminal procedural form, with the rationality and economy of using forces and means of the judiciary, with the shortening of pre-trial investigation and criminal cases consideration, increasing the educational impact of the process, ensuring the fastest possible protection of citizens' rights and satisfying their interests (Drozdov, 2015).

The importance and necessity of differentiating the criminal procedural form is emphasized in recommendations No. R (81) 7 of the Council of Europe to member states on measures to facilitate access to justice (Recommendation, 1981) and recommendations No. R (87) 18 of the Council of Europe to member states on simplification of criminal justice (Recommendation, 1987).

The criminal procedural legislation of Ukraine tends to rapid development and constant renewal due to the influence of many factors, therefore, the mentioned recommendations were reflected in the new criminal procedural code of Ukraine (hereinafter referred to as the Criminal Procedure Code of Ukraine) by differentiating the criminal procedural form and as a result of the introduction of special procedures.

In particular, due to the differentiation of the procedural form, the following special procedures for criminal proceedings appeared in Ukraine: simplified proceedings for criminal misdemeanors and jury proceedings (Chapter 30 of the Criminal Procedure Code, which is entitled "Special Procedures for Proceedings in the Court of First Instance"); criminal proceedings based on agreements, criminal proceedings in the form of a private prosecution, criminal proceedings regarding an

act, the criminal wrongfulness of which was established by a law that has lost its validity, criminal proceedings against a separate category of persons, criminal proceedings against minors, criminal proceedings regarding the application of coercive measures of a medical nature, criminal proceedings that contain information that constitutes a state secret, criminal proceedings on the territory of diplomatic missions, consular institutions of Ukraine, on an air, sea or river vessel that is outside the borders of Ukraine under the flag or with a distinguishing mark of Ukraine, if this vessel is assigned to the port, located in Ukraine (Chapter VI of the Criminal Procedure Code of Ukraine entitled "Special Procedures of Criminal Procedure").

The modern science of the criminal process does not offer a unified approach to the classification of special procedures of criminal proceedings and the determination of their clear list.

In his article, Demura (2022) considers it expedient to include other procedures that are not provided for in special sections in the Code of Criminal Procedure of Ukraine, namely: proceedings against a legal entity and special pre-trial investigation of criminal offenses, which are regulated by Chapter 24-1 of the Code of Criminal Procedure, among the special procedures of criminal proceedings.

For example, Lapkin (2020) approaches the definition of special procedures of criminal proceedings through the formulation of simplified and complicated procedures (forms). To simplified forms the scientist refers proceedings based on agreements, proceedings in the form of a private prosecution, proceedings regarding criminal misdemeanors, and proceedings regarding the release of a person from criminal liability. The author suggests that the proceedings regarding minors, regarding the application of coercive measures of a medical nature, in a jury trial, regarding persons who have a special status due to their profession, etc., should be classified as complicated. In addition, the work emphasizes that this division is somewhat conditional because a special procedure of proceedings can involve both simplification and complication of the procedural form. For example, proceedings in the absence of the suspect or accused (in absentia).

In turn, we believe that it is possible to group special procedures of criminal proceedings by other criteria, for example: special procedures of criminal proceedings in the court of first instance, to which we can include criminal misdemeanor proceedings and jury proceedings; special procedures of criminal proceedings relating to the specificity of the subject of the committed act, which includes proceedings against minors suffering from mental disorders and a separate category of persons; other special procedures of criminal proceedings, in particular, in criminal proceedings based on agreements, in the form of private prosecution, special pre-trial investigation and trial (in absentia), etc.

Each of the listed special procedures has its own specificity and is the object of research by many scientists. In particular, Drozdov (2015) conducted research on the issue of special pre-trial investigation and trial (in absentia), and Perepelitsa (2015) in his monographic work analyzed criminal proceedings in the form of private prosecution, which confirms the relevance, interest, and necessity of theoretical research.

Thus, the differentiation of the procedural form after the adoption of the new Code of Criminal Procedure of Ukraine led to the emergence of separate procedures in criminal proceedings, which are characterized by certain features and complexities. In our opinion, the new criminal procedural legislation has chosen the right way of developing the procedural form through its differentiation, avoiding the stage of stagnation or degradation of the criminal procedural form through its unification, which is characteristic of the Soviet era.

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## THE ROLE OF INTERNATIONAL HUMANITARIAN LAW, EUROPEAN CONVENTION ON HUMAN RIGHTS AND EUROPEAN COURT ON HUMAN RIGHTS DURING MILITARY OPERATIONS

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The International Humanitarian Law (IHL), the European Convention on Human Rights (ECHR), and the European Court of Human Rights (ECtHR) play crucial roles during military operations. These legal instruments and institutions are indispensable for upholding human dignity, promoting accountability for violations, and mitigating the humanitarian impact of armed conflict. IHL establishes a framework for regulating the conduct of war, safeguarding civilians and combatants, and minimizing civilian casualties. It promotes respect for human rights even in the chaos of a battle. The ECHR and ECtHR work together to protect fundamental

human rights during military operations. The ECHR provides a legal basis for holding states accountable for violations, while the ECtHR adjudicates claims and ensures access to justice for victims. Together, these frameworks contribute to a more humane and just environment in times of war. They are essential for mitigating suffering, upholding human dignity, and advancing the cause of peace.

In times of armed conflict, the protection of human rights and humanitarian principles stands at the forefront of global concern. Amidst the chaos and complexities of military operations, the frameworks established by International Humanitarian Law (IHL), the European Convention on Human Rights (ECHR), and the European Court of Human Rights (ECtHR) play pivotal roles in upholding fundamental rights and ensuring accountability. As we navigate through the intricate landscapes of conflict, understanding the roles and interactions of IHL, the ECHR, and the ECtHR becomes essential in advancing justice, peace, and the protection of civilians in times of war.

In the tumultuous landscape of armed conflict, the principles and regulations of International Humanitarian Law (IHL) serve as guiding beacons, illuminating pathways toward the protection of human dignity amidst the chaos of war. Established to mitigate the suffering inflicted by armed conflicts and to balance military necessity with humanitarian imperatives, IHL plays a fundamental role in shaping the conduct of parties engaged in military operations. Central to the framework of International Humanitarian Law is the principle of civilian immunity, which mandates the protection of civilians and civilian objects from the ravages of war. IHL prohibits indiscriminate attacks, targeting of civilians, and acts of violence that cause disproportionate harm to civilian populations (Guglielmo Verdirame, 2008).

Moreover, it establishes rules governing the conduct of hostilities, such as the distinction between civilian and military targets, the principle of proportionality, and the requirement to take precautions to minimize civilian casualties (David Kretzmer, 2009). During military operations, adherence to these principles is essential for

mitigating the human cost of war and preserving the lives and well-being of non-combatants caught in the crossfire.

International Humanitarian Law also sets forth regulations regarding the treatment of combatants who have been captured or are no longer participating in hostilities. The Geneva Conventions and their Additional Protocols establish rules for the humane treatment of prisoners of war, including provisions regarding their living conditions, medical care, and protection from torture and ill-treatment. Additionally, IHL prohibits acts of violence against individuals who are hors de combat, such as wounded soldiers, medical personnel, and shipwreck survivors. By safeguarding the rights of combatants, IHL contributes to the maintenance of dignity and respect even in the midst of armed conflict. In addition to protecting civilians and combatants, International Humanitarian Law seeks to mitigate the humanitarian impact of military operations on civilian populations and the environment (Claire Landais and Lea Bass, 2015). It imposes restrictions on the use of certain weapons and tactics, such as weapons of mass destruction, landmines, and chemical weapons, due to their indiscriminate and disproportionate effects.

Moreover, IHL mandates the provision of humanitarian assistance to civilian populations in need, including access to food, water, medical care, and shelter. By promoting compliance with these regulations, IHL aims to alleviate human suffering and preserve essential elements of civilian life, even in the midst of armed conflict. In conclusion, the role of International Humanitarian Law in military operations cannot be overstated. As a body of law founded on the principles of humanity, neutrality, and impartiality, IHL serves as a cornerstone for the protection of human dignity in times of war. By establishing rules governing the conduct of parties to conflicts, safeguarding the rights of civilians and combatants, and mitigating the humanitarian impact of armed conflict, IHL plays a crucial role in promoting respect for human rights and advancing the cause of peace and justice on the battlefield (Andrey Benison, 2000). As the international community continues to grapple with the challenges of armed conflict, adherence to and enforcement of International

Humanitarian Law remain essential for mitigating human suffering and preserving the principles of humanity in the darkest of times.

In the midst of armed conflict, where chaos and violence often reign, the protection of fundamental human rights stands as a beacon of hope amidst the darkness of war. The European Convention on Human Rights (ECHR) and the European Court of Human Rights (ECtHR) play crucial roles in upholding these rights even in the most challenging circumstances of military operations. The ECHR, adopted in 1950, represents a landmark treaty aimed at safeguarding human rights and fundamental freedoms across Europe. It sets forth a comprehensive range of rights, including the right to life, the prohibition of torture and inhuman or degrading treatment, the right to a fair trial, and the protection of privacy and family life. During military operations, the ECHR provides a robust legal framework for holding states accountable for human rights violations committed within their jurisdiction, including actions taken by military personnel. Its provisions apply at all times, including during armed conflict, ensuring that the rights of individuals are respected and protected even in the midst of war. The European Court of Human Rights, established under the auspices of the ECHR, serves as a judicial body responsible for adjudicating alleged violations of human rights by states parties to the Convention. Individuals, groups, or non-governmental organizations can bring complaints before the Court alleging violations of their rights under the Convention (Harmen van der Wilt and Sandra Lyngdorf, 2009). The ECtHR plays a crucial role in interpreting the ECHR, developing jurisprudence on human rights issues, and holding states accountable for their actions during military operations. Its judgments and decisions serve as authoritative interpretations of human rights law and contribute to the development of international standards regarding the conduct of armed forces in conflict situations. The ECHR and the ECtHR play instrumental roles in protecting the rights of individuals affected by military operations. They ensure that states uphold their obligations under international law, including during times of armed conflict. The ECtHR has issued numerous judgments and decisions concerning human rights violations occurring in the context of military operations, including cases involving

extrajudicial killings, torture, arbitrary detention, and violations of the right to a fair trial. These decisions serve to hold states accountable for their actions, provide redress to victims, and establish precedents for future cases. In conclusion, the European Convention on Human Rights and the European Court of Human Rights serve as cornerstones for the protection of human rights during military operations (Guglielmo Verdirame, 2008). Their legal frameworks and judicial mechanisms provide essential safeguards against abuses of power and ensure that individuals affected by armed conflict have recourse to justice and accountability. As the international community continues to grapple with the challenges of armed conflict, the adherence to and enforcement of human rights standards remain essential for promoting peace, justice, and respect for human dignity on the battlefield.

In conclusion it should be mentioned that the roles of International Humanitarian Law (IHL), the European Convention on Human Rights (ECHR), and the European Court of Human Rights (ECtHR) during military operations are indispensable in upholding human dignity, promoting accountability, and mitigating the humanitarian impact of armed conflict. IHL serves as a crucial framework for regulating the conduct of parties to conflicts, safeguarding the rights of civilians and combatants, and minimizing the human cost of war. It establishes rules governing the treatment of individuals and objects during hostilities, ensuring compliance with humanitarian principles even in the chaos of war. Similarly, the ECHR and the ECtHR play vital roles in protecting human rights and holding states accountable for violations committed during military operations. The ECHR provides a comprehensive legal framework for safeguarding fundamental freedoms, while the ECtHR serves as a judicial body responsible for adjudicating alleged violations and ensuring access to justice for victims. Together, these legal instruments and institutions contribute to the promotion of peace, justice, and respect for human dignity on the battlefield. As the international community continues to confront the challenges of armed conflict, adherence to and enforcement of these legal frameworks remain essential for mitigating human suffering and advancing the cause of humanity amidst the turmoil of war.

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## CYBERSECURITY AND DATA PRIVACY: NAVIGATING LEGAL FRAMEWORKS IN A DIGITAL AGE

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In our interconnected world, where digital technologies permeate every aspect of our lives, cybersecurity and data privacy have emerged as critical concerns. As we embrace the conveniences of online communication, commerce, and social interaction, we must also grapple with the inherent risks posed by cyber threats and the potential misuse of personal information. Navigating the legal frameworks

surrounding cybersecurity and data privacy is essential to safeguarding individuals' rights, protecting sensitive data, and fostering trust in the digital ecosystem.

One of the central challenges in this domain is the ever-evolving nature of cyber threats. Malicious actors continuously devise sophisticated techniques to infiltrate networks, compromise systems, and steal sensitive information. From ransomware attacks targeting businesses to identity theft schemes aimed at individuals, the breadth and depth of cyber threats are staggering. Consequently, governments and regulatory bodies worldwide are tasked with enacting and enforcing robust legal mechanisms to combat cybercrime effectively. There are some of them: Cyberbullying is the use of electronic media such as emails, chats, phone conversations, and online social networks to bully or harass a person (Baldry AC, Sorrentino A, Farrington DP, 2018); Cyber grooming is establishing an intimate and emotional relationship with the victim (usually children and adolescents) with the intention of compelling sexual abuse (Ngejane C, Mabuza-Hocquet G, Eloff JH, Lefophane S, 2018); Cyberstalking is the observing of an individual by the means of internet, email or some other type of electronic correspondence that outcomes in fear of violence and interferes with the mental peace of that individual (Cyberstalking, 2018).

At the heart of cybersecurity and data privacy concerns is the protection of personal information. In an era of pervasive online data collection and tracking, individuals are increasingly wary of how their data is being used and shared by corporations and governments. The advent of social media platforms, e-commerce websites, and Internet of Things (IoT) devices has exponentially increased the amount of data generated and stored about individuals, raising significant privacy concerns. Users should learn about the privacy and security setting for different social media platforms and use them (12 tips for safe social networking, 2019). Consequently, legislators have responded by enacting comprehensive privacy laws to empower individuals with greater control over their personal data.

A prime example of such legislation is the General Data Protection Regulation (GDPR) enacted by the European Union (EU). GDPR sets forth strict requirements

for data processing, storage, and consent, imposing hefty fines on organizations that fail to comply. Similarly, jurisdictions such as California have implemented their own privacy laws, such as the California Consumer Privacy Act (CCPA), which grant consumers greater transparency and control over their personal information. These legal frameworks serve as crucial safeguards for individuals' privacy rights in the digital age. Broadly, the CCPA grants consumers four basic rights in connection to their personal data: (1) the right to know what personal information a business has collected about them and how it is being used; (2) the right to "opt out" of a business selling their personal information; (3) the right to have a business delete their personal information; and (4) the right to receive equal service and pricing from a business, even if they exercise their privacy rights under the Act. (Kristen J. Mathews & Courtney M. Bowman, 2018).

However, navigating the legal landscape of cybersecurity and data privacy is fraught with challenges. The rapid pace of technological innovation often outpaces regulatory efforts, leaving gaps and loopholes in the legal framework. Moreover, the global nature of cyberspace presents jurisdictional complexities, making it difficult to enforce laws across borders effectively. As a result, achieving meaningful cybersecurity and data privacy requires international cooperation and coordination among governments, industry stakeholders, and civil society organizations.

In conclusion, cybersecurity and data privacy are foundational pillars of a secure and trustworthy digital environment. By navigating the legal frameworks surrounding these issues, governments, businesses, and individuals can mitigate risks, protect sensitive information, and uphold fundamental rights in the digital age. Collaboration, innovation, and a commitment to ethical data practices are essential in fostering a safer and more secure digital ecosystem for all stakeholders. As we continue to navigate the complexities of cybersecurity and data privacy, it is imperative that we remain vigilant, adaptable, and proactive in addressing emerging threats and challenges.

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## PROBLEMATIC ISSUES OF USING UNMANNED AERIAL VEHICLES DURING INSPECTION OF THE CRIME SCENES IN CONDITION OF WAR

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The inspection of a crime scene is a very important investigative activity, and in most cases, it helps to obtain key evidence of a committed crime. That’s why a lot of technical innovations are being used in such processual activities. Previously, these were photo and video cameras, later they became digital, and now investigators actively use unmanned aerial vehicles (hereinafter «UAVs») for documenting the crime scene. The introduction of each of these instruments was accompanied by changes in the proportion of specialists involved in their use. Initially, almost all investigative actions involving these items were carried out with the participation of specialists, and later more and more investigators took on this role themselves. This is due to the gradual integration of these devices into our lives, the increase of their ownership among people, and the simplification of using them. Perhaps the most vivid example is cameras, which previously required very complex physical adjustments of exposure, focusing, ignition of a magnesium mixture with other substances to create a flash, followed by numerous procedures for transferring the image from frames or films to special paper. And now, to take a picture, it is enough to press a button on a camera or a mobile phone in "auto" mode.

Similarly, the widespread use of civilian UAVs and the development of drone-hobbies have made drones as a forensic tool for photo and video shooting, and today investigators use this technology themselves.

Since the full-scale invasion of the russian federation into Ukraine, the use of UAVs during inspections of areas affected by various weapons has become almost necessary. It is almost impossible to obtain an objective picture of the event from the ground (both due to the need for shooting from different angles and due to the large scale of the event), and the approach of the participants of the investigative action can be dangerous (there can be explosive things).

Despite the fact that investigators are currently capable of performing the task of using UAVs, the conditions of war have introduced certain corrections, which make it advisable to use the specialists in the inspections of crime scenes in areas of combat.

The first problem is that in many cases, means of electronic warfare are used, and that can cause loss of control of the aircraft. Therefore, the pilot must be able to distinguish signs of electronic influence, prevent the loss of the drone, and have an aircraft with additional technical and program protection against electronic warfare.

The second problem, which is much more serious than the first, is the enemy's electronic reconnaissance. Under certain conditions, the enemy has the opportunity to obtain information about the location of the drone, its route, its identification numbers, and the physical location of the pilot controlling it. And both the drone and its pilot are targets for enemy weapons. In other words, all participants of the investigative action risk coming under enemy artillery fire. That’s why UAVs during the inspection crime scenes in areas where combat operations should be programmatic masked and the flights should be carried out with maximum protection from visual observation. Thus, this problem can also be solved by involving a specialist with a set of specific skills.

Additionally, we should remember that since February 24, 2022, the airspace of Ukraine has been closed for any civilian flights, and the use of UAVs by investigators needs to be coordinated.

Therefore, in order to properly document evidence and ensure their own safety in areas of combat operations, it is advisable to involve a specialist who has skills in masking the drone from electronic reconnaissance and flying in conditions of electronic warfare.

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## POST-WAR ENVIRONMENTAL REHABILITATION: IMPORTANCE FOR REGIONAL AND ENTREPRENEURIAL DEVELOPMENT

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The ongoing war in Ukraine has inflicted significant environmental damage, constituting a large-scale ecological assault. This paper examines the multifaceted nature of post-war ecological rehabilitation, analyzing its environmental, economic, and social dimensions. The legal framework for environmental protection and restoration in Ukraine will be explored, highlighting relevant national and international instruments. The paper argues that ecological rehabilitation presents an opportunity for regional and entrepreneurial development, while simultaneously positioning Ukraine as a leader in "green" technologies.

Warfare inherently disrupts ecological equilibrium, causing lasting damage to ecosystems and jeopardizing public health. The ongoing conflict in Ukraine presents a stark illustration of this phenomenon. While the immediate focus remains on securing peace and safeguarding human life, consideration must be given to the long-term consequences of environmental destruction. This paper contends that ecological rehabilitation in post-war Ukraine necessitates a comprehensive approach that integrates environmental, economic, and social aspects.

The war in Ukraine has demonstrably caused substantial environmental harm. Documented instances include the destruction of forests and natural habitats, contamination of soil and water resources with pollutants, and the disruption of wildlife populations. These ecological repercussions transcend national borders, potentially impacting regional ecosystems and biodiversity.

The Ukrainian legal system incorporates a robust framework for environmental protection. The Constitution of Ukraine enshrines the right to a healthy environment [1] The Law of Ukraine "On Environmental Protection" establishes a comprehensive regime for environmental management, pollution control, and impact assessments [2]. Furthermore, Ukraine is party to numerous international environmental treaties, including the Convention on Biological Diversity and the Framework Convention on Climate Change. These instruments provide a legal foundation for holding

perpetrators accountable for environmental damage and securing resources for restoration efforts.

**Ecological Rehabilitation as a Catalyst for Development**

Ecological rehabilitation transcends mere environmental restoration. It presents an opportunity to stimulate regional development and entrepreneurial endeavors. The creation of "green" jobs in sectors like ecotourism, land reclamation, and environmental remediation can foster economic growth and empower local communities. Additionally, attracting foreign investment in clean-up technologies and sustainable infrastructure development can further bolster the national economy.

A “green” economy presents a unique opportunity for Ukraine to emerge as a leader in sustainable reconstruction.

**Further Research**

This paper highlights the need for further research in several key areas:

- Assessing the full extent of environmental damage caused by the war.
- Developing innovative and cost-effective technologies for ecological restoration.
- Establishing robust mechanisms for public participation and stakeholder engagement in the rehabilitation process.
- Harmonizing national environmental legislation with the evolving framework of international environmental law.

By addressing these research areas, Ukraine can effectively navigate the complexities of post-war ecological rehabilitation and emerge as a model for sustainable reconstruction.

**Conclusion**

Ecological rehabilitation in post-war Ukraine represents a multifaceted challenge with profound environmental, economic, and social ramifications. The existing legal framework provides a foundation for holding violators accountable and securing resources for restoration. Embracing ecological rehabilitation as a catalyst for regional and entrepreneurial development, while transitioning towards a "green"

economy, presents a unique opportunity for Ukraine to emerge as a leader in sustainable reconstruction.

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## LABOR EDUCATION IN THE CONTEXT OF MODERN AND FUTURE HIGHER EDUCATION


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The history of pedagogy analyses past pedagogical experiences, usually through the prism of present challenges and needs. The study of labour pedagogy in European philosophical and pedagogical thought is no exception. The concept of labour education has been present throughout the evolution of the educational process and has the potential to be effectively utilised at all levels of the education system.

This paper describes a historical example of the use of the labour method in education during the Enlightenment and its potential relevance for higher education today and in the future. The analysis is based on the findings of a doctoral research project. A method of qualitative content analysis (Preiser et al., 2021) has been used to examine a supplementary body of secondary literature.

Although labor education has been known for a long time, the Enlightenment period saw a special flowering of the ideas of upbringing and education through labor. European Enlightenment philosophers aimed to promote the ideal of rational existence and paid particular attention to education. Locke (1836), Rousseau (1899), Pestalozzi (1877), Basedow (1771) and other Enlightenment thinkers, as well as their

followers, established the groundwork for a child-centred educational system. This system was based on creative mental and physical labour.

The concept of labour during that time should be considered broadly, not limited to just professional or physical work. According to the Enlightenment thinkers, labour should become both the meaning and way of life. In combination with the anthropocentric approach in general and pedocentrism in particular, the ideas of labour education during the Enlightenment era reached a qualitatively new level of pedagogical rethinking. Creative work has been considered as a tool for educational purposes, aiming to teach individuals how to live in harmony with themselves and the world around them.

In modern higher education, labour education prepares individuals for professional activity in the context of the challenges of the modern labour market. Dual education is a clear example of this trend. The necessity and practical significance of such approaches are self-evident.

The relationship between the labour market and education in democratic states with a market economy is explained by the pragmatic approach in the modern interpretation of labour education. However, the Enlightenment's meanings can still be productively used in modern higher education. Constant creative work aimed at self-development and the well-being of the team can open up new prospects in building the life trajectories of young people. Higher education of the future should prioritize building a curriculum that takes into account personal creative development in work, rather than simply completing training exercises and assignments. The entire educational process should involve active joint creative work between teachers and students. This is because higher education is where the skills of creative intellectual work are honed, which contribute to a person's future direction in life. It is important for students to develop a broad range of skills and appreciate the value of collective effort.

The works of the Enlightenment emphasise the importance of work in education as a method, goal and result of human life, enabling individuals to achieve creative realisation in society. The integration of work into the modern education

system has enormous potential as it shifts the emphasis from mastering professional skills to the creative development of individuals in a team. In the current fragmented and rapidly changing global labor market, the ability to work, learn, and develop will become the priority areas of higher education in the future. The work method in education can help address this challenge.

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## CIVIL FORFEITURE OF UNEXPLAINED ASSETS ON THE EXAMPLE OF THE BRITISH UNEXPLAINED WEALTH ORDERS MODEL

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The consolidation of efforts by many countries to combat corruption and its cross-border manifestations has led to the search for and development of effective tools to combat illicit enrichment at both the national and supranational levels. One of these tools is non-conviction-based confiscation / civil asset forfeiture, which has been implemented in one form or another in the legislation of many countries. Ukraine is no exception in this regard, with its civil procedural law providing for a special procedure for considering cases of recognizing unexplained assets and

recovering them as state revenue since 2015. When introducing the relevant model of civil forfeiture, the national legislator was guided primarily by the successful practices of other states. One of them, of course, was the British model of unjustified asset recovery - UWO (Unexplained wealth order).

The idea behind the UWO is that it provides law enforcement agencies with a tool to freeze and ultimately seize property suspected of being acquired with laundered money or corrupt capital. When a UWO is issued for real estate, its owners must explain the sources of the wealth from which the property was acquired. Failure to do so creates a legal presumption that the property was acquired with the proceeds of crime and may thus be confiscated in subsequent civil proceedings under the provisions of the Criminal Finances Act (Heathershaw J. & Mayne T., 2023). In practice, the UWO constructs are mainly applied to foreign politically exposed persons (PEP) who perform important public functions outside the UK or the European Economic Area and are suspected of committing serious crimes, as well as to persons associated with them (Nurazlina A.R., Norazlina A.A., Nurazhani A.R., 2021).

The introduction of the UWO was because over a long period, the UK has become a favorite haven for money laundering and investment from international corruption. For example, in December 2016, the anti-corruption NGO Transparency International-United Kingdom (TI-UK) discovered and identified at least 986 land rights in London owned by foreign companies linked to politically exposed persons. TI-UK suggests that the true figure is likely to be much higher, due to significant data gaps, including the fact that they were only able to find ownership information on slightly more than 50% of foreign companies owning land in London. TI-UK only checked just over half of the land ownership of PEP-related companies located in what TI-UK characterizes as "secret jurisdictions" such as Panama, the British Virgin Islands, and Jersey, which TI-UK believes are commonly used in laundering schemes. It is the conversion of proceeds of corruption abroad into property in the UK that has become a set of potential targets for the UWO tool (Sproat, P., 2018).

According to the provisions of British law, the High Court, upon a reasonable request from a law enforcement agency, issues a UWO order obliging politically exposed persons (not from the European Economic Area) and their associates (including legal entities) to explain the sources of their wealth. The law, however, does not require mandatory linkage to any investigations or proof of criminal behavior (Khutor T., 2020). If the defendant fails to comply with the UWO requirements, the court applies a rebuttable presumption of the illegality of the assets' origin and determines the possibility of their recovery through civil proceedings (Moiseienko A., 2022). In such circumstances, in civil proceedings for asset recovery, the relevant burden of proof is reversed, as the state no longer bears the burden of proving that the disputed assets are the proceeds of crime (Mather J., 2018). Thus, failure to provide the information requested by the court within the stipulated timeframe leads to the property being considered subject to confiscation, while providing false, misleading information on the UWO may result in criminal liability (Khutor T., 2020).

It is worth noting that the core of the Ukrainian model of civil forfeiture of unexplained assets is also the obligation to prove the legitimacy of the sources of origin of the disputed assets, which, however, does not imply a full shift of the burden of proof of their unreasonableness exclusively to one party. Similarly, to the British model, confiscation can be applied not only to the assets of a person authorized to perform the functions of the state or local government,but also to other individuals and legal entities related to him/her, when such persons are aware of the illegality of the asset's origin or deliberately ignore this fact, which indicates the owner's bad faith (Nurullayev I.S., 2022).

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## PECULIARITIES OF PAYING EXCISE TAX ON ETHYL ALCOHOL AND ALCOHOLIC PRODUCTS IN THE CONDITIONS OF A SPECIAL LEGAL REGIME

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Excise tax on ethyl alcohol and alcoholic products, namely control over their taxation, is carried out according to the Tax Code of Ukraine (from now on referred to as the Tax Code of Ukraine).

It should be noted that the excise goods include, in particular, ethyl alcohol and other alcohol distillates, alcoholic beverages, and beer (except kvass of "live" fermentation) (clause 215.1 of article 215 of the Criminal Code of Ukraine).

Thus, ethyl alcohol and alcoholic products, within the meaning of Article 213 of the Criminal Code of Ukraine, are subject to excise tax.

It is worth mentioning that the following checks are carried out by the tax authority to control the circulation of ethyl alcohol and alcoholic products:

- chamber inspections;

- actual checks.

Chamber inspection is subject to art. 75 of the Code of Ukraine, which concerns the timeliness of submission and registration of excise invoices and adjustment calculations to excise invoices in the Unified Register of Excise Invoices, as well as the timeliness of submission of excise tax declarations and payment.

Since the sale of excisable goods creates an obligation for the taxpayer to draw up and register an excise invoice, the circulation of these goods is subject to a camera inspection. The controlling body verifies the availability of licenses and certificates, including those for the production and circulation of excise goods.

Under the provisions of the Code of Ukraine, excise taxpayers are required to submit and register their excise invoices and calculate adjustments to excise invoices in the Unified Register of Excise Invoices in a timely manner, prepare and submit excise tax declarations, and pay excise tax. The deadline for fulfilling the specified obligations is a calendar month.

Martial law was introduced on Ukraine's territory on February 24, 2022, by Decree of the President of Ukraine № 64/2022, in connection with the Russian Federation's military aggression against Ukraine. The specified circumstances served as a basis for adapting the legal regulation of changed relations and, accordingly, adopting new laws or making changes to existing ones. These changes also relate to the circulation of ethyl alcohol and alcoholic products.

Thus, the Law of № 2118-IX dated 03.03.2022, which entered into force on 07.03.2022, subsection 10 of Chapter XX" "Transitional Provisions" of the Tax Code

of Ukraine was supplemented by clause 69.2, according to which: "Tax audits are not started, and started audits are stopped". As a result, implementing one of the control and supervisory measures, namely the conduct of cameras and actual inspections, was suspended/suspended.

At the same time, the Law of Ukraine № 2120-IX, dated 15.03.2022, entered into force on 17.03.2022, clause 69.2 subsection 10 of section XX "Transitional Provisions" of the Tax Code of Ukraine is set out in the following version: "Tax audits are not started, and audits that have started are stopped, except, in particular, actual audits." Therefore, actual inspections were resumed, while actual checks on the circulation of ethyl alcohol and alcoholic products were not carried out from March 7, 2022, to March 17, 2022.

In addition, by the Law of Ukraine № 2142-IX dated 24.03.2022, subsection 10 of Chapter XX "Transitional Provisions" of the Tax Code of Ukraine was supplemented with clause 69.4, according to which: "If it is impossible to register an excise invoice in the Unified Register of Excise Invoices, the movement of fuel or alcohol is allowed of lead using transport in the presence of a consignment note, which must include all the information that must be contained in the corresponding excise invoice, that must be registered in the Unified Register of Excise Invoices, within three months after the termination or cancellation of martial law in Ukraine". So, the taxpayer's duty to register excise invoices, submit excise tax declarations, and pay the excise tax, which was to be made within a calendar month, was postponed until the end or cancellation of martial law, and a grace period of three months was granted.

The circumstances mentioned above indicate that the legislator adapted the procedure for taxation of the circulation of excise goods and the funds received from their sale by creating mutually beneficial and unburdening conditions for each of the parties (the state and the taxpayer) directed mutual assistance and support to each other.

At the same time, the Law of № 2260-IX dated 12.05.2022, entered into force on 27.05.2022, clause 69.2 subsections 10 of Chapter XX "Transitional Provisions"

of the Tax Code of Ukraine is set out in the following version: "If the taxpayer does not have the opportunity to fulfil his tax obligation promptly in terms of compliance with the deadlines for paying taxes and fees, submitting reports, including the ones provided for in clause 46.2 of Article 46 of this Code, registering in the relevant registers tax or excise invoices, adjustment calculations, submission of electronic documents containing data on the actual remaining fuel and the volume of circulation of fuel or ethyl alcohol, etc., taxpayers are released from the responsibility provided for by this Code with the mandatory performance of such duties within six months after the termination or cancellation of martial law in Ukraine".

Hence, for taxpayers who have the opportunity to fulfil their obligations, including those related to excise tax, their fulfilment was resumed from 15.07.2022 within the time limits provided before the introduction of martial law. Also, if the taxpayer cannot fulfil tax obligations, their fulfilment was postponed until the termination or abolition of martial law on the territory of Ukraine and a six-month grace period was granted.

Law № 2284-IX dated 31.05.2022, "On Amendments to the Tax Code of Ukraine and Other Laws of Ukraine on Stimulating the Production of Denatured Ethyl Alcohol", deserves special attention. It entered into force on 17.06.2022, which was aimed at solving problems related to grain storage since grain alcohol, which is a type of ethyl alcohol, is produced from grain raw materials/grain crops. The specified law allowed for the period of the legal regime of martial law, business entities that have a license for the production of undenatured ethyl alcohol to produce denatured ethyl alcohol and bioethanol based on a permit for the production of undenatured ethyl alcohol, and business entities that have a license to produce denatured ethyl alcohol, to produce bioethanol.

To sum up, the analysis of the changes mentioned above in the circulation of ethyl alcohol and alcoholic products gives reason to conclude that the legislator adapted the legal regulation of these relations to the country's situation to ensure compliance with public and private interests. To assist taxpayers in their activities in the circulation of ethyl alcohol and alcoholic products, they were exempted from

responsibility for late fulfilment of tax obligations until the termination or abolition of martial law in Ukraine, and a grace period was granted for their fulfilment. Also, operations related to the transfer of funds received from the sale of excise goods for the benefit of the Armed Forces of Ukraine and territorial defense units were exempted from taxation.

The above circumstances indicate that with the change in social relations, which directly depend on the situation occurring in the country, namely caused by the action of martial law, their legal regulation also changes, which consists of both established prohibitions, their relaxation, and provision of relevant benefits.

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## THE UNIVERSAL NATURE OF NON-REFOULEMENT UNDER INTERNATIONAL LAW

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Since the formation of the first States and the legal consolidation of their borders, people have moved from one country to another due to wars, persecution or other threats to life or health.

The requirement to resolve these processes of migration or movement of people arose between the two World Wars, when millions of people were looking for the opportunities to save their lives.

The resolution of the forced displacement process is crucial because individuals fleeing their country in an attempt to preserve their lives are among the most vulnerable members of society. They face significant challenges, including inadequate access to medical care, food, water, and health services, as well as a lack of rights within the territory of a foreign State.

At the 1892 Geneva Session of the Institute of International Law, for the first time, the obligation to adhere to extradition conditions when repatriating refugees to a country seeking them was formulated (Molnar, 2016).

A further important step in the process of developing of the international protection of human rights was taken when the 1951 Geneva Convention relating to the Status of Refugees ruled that: “No Contracting State shall expel or return (“refoul”) a refugee in any manner whatsoever to the frontiers of territories

where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".

Thus, in that period the principle of non-refoulement was a special principle of the international refugee law.

Later on, the scope of application of this principle broadened beyond that contained in international refugee law.

Evidence of this is the reinforcement of the significance and fundamental character of non-refoulement as a basic humanitarian principle, as concluded by the Executive Committee on the International Protection of Refugees in 1977, 1980, 1981, 1984 (Molnar, 2016).

The Executive Committee have reaffirmed the fundamental importance of the observance of the principle of non-refoulement both at the border and within the territory of a State of persons who may be subjected to persecution if returned to their country of origin irrespective of whether or not they have been formally recognized as refugees.

In Article 3 of the 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment already prohibits the return or extradition of any person "to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

A large number of regional documents were also adopted with a clear consolidation of the principle of non-refoulement, which no longer refers only to refugees including the Inter-American Convention of the Prevention of Torture, the American Convention on Human Rights, and the Charter of Fundamental Rights of the European Union.

The prohibition of refoulement can be regarded as the norm of *jus cogens*, required for all States, including States that have not yet become parties to the relevant treaties (Kotlyar, 2014). Based on the *jus cogens* character of non-refoulement guarantees individuals the right to a fair trial. (Allain, 2001).

The prohibition of refoulement applies to all persons, irrespective of their citizenship, nationality or migration status, and applies wherever a State exercises jurisdiction.

Thus, with the view to the large number of international conventions in the field of human rights, we can conclude that the principle of non-refoulement is a fundamental universal principle, without any exception. Otherwise, the existence of international law and order may be questioned.

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## OBLIGATIONS UNDER AGENCY INSURANCE CONTRACTS

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In the conditions of the modern economy of Ukraine and the world, diligence has acquired and continues to acquire enormous importance, since it provides the opportunity to invest, buy and sell movable and immovable property, and corporate rights. In this regard, the insurance institute acquires a special meaning not only in Ukraine, but also in the world as a whole. At the same time, a huge number of entities that provide insurance services are emerging and forming. Insurance intermediaries and insurance agents make up an integral part of these subjects.

Analysis of the system of general insurance agencies specifies the degree of relationship between the insurance company and the insurance agent (Reznikova 2009). Legal position of insurance agents as intermediaries in the insurance market of Ukraine (Reznikova 2009, p. 145). Nowadays, such a system prevails in foreign insurance markets. General agents are business entities authorized by one or more insurers that they represent in certain administrative-territorial region. As a rule, such a system is built according to the territorial-administrative feature of the geographical region served by the general agent. Legally, the relationship between a general insurance agent and an insurance company is formalized by an agency contract. This contract indicates the type of insurance, in which the agent is authorized to work, the maximum risk limit that he can accept, territorial restrictions, obligations for the implementation and management of contracts, payments of insurance sums and insurance indemnities, the amount of the commission fee. The general insurance agent, in turn, concludes contracts with insurance agents, who are allocated a service area - a territory (specific settlements) where they must organize the sale of insurance policies. Over time, when an appropriate level of insurance development has been reached in a certain territory, the insurance agent has the right to engage sub-agents as assistants. Sometimes the duties of a subagent may be limited to representative functions only. The indisputable advantages of the system of general insurance agencies are their flexibility and mobility.

The procedure and process of activity of insurance agents, insurance intermediaries is not clearly regulated at the legislative level. This was seen in the work of Holovacheva A. S. (Holovacheva 2014) Concepts and signs of insurance intermediary activity: scientific and theoretical problems of definition (Holovacheva 2014, p. 80). The analysis of regulatory legal acts in the field of insurance shows the existence of a number of problematic issues in Ukraine, which regulate the legal status of insurance agents, namely:

- the absence of requirements for the professional level of knowledge and training of insurance agents;

- the absence of a prohibition on insurance agents to carry out intermediary activities in several insurers;
- the absence of a prohibition on the stay of insurance agents in labor relations with the insurer.

Accounting and registration of insurance agents is also a problematic issue. The Law of Ukraine "About Insurance" does not provide for the registration of insurance agents, instead, in 2013, a register of insurance agents who have the right to mediate the compulsory civil liability insurance of owners of land vehicles was created in the Motor (Transport) Insurance Bureau of Ukraine.

At the same time, the Law of Ukraine "About Insurance" document No. 1909-IX, adopted on 11/18/2021 (entering into force on 12/19/2021) is aimed at settling the above-mentioned issues. In particular, the Law contains definitions of "insurance agent", "insurance intermediary" and "subagent".

In addition, it should be emphasized that Article 73 of the specified Law contains requirements for persons who carry out activities (perform labor duties) for the sale of insurance and/or reinsurance products (Law of Ukraine "About Insurance" 2021).

Thus, the provision of Part 1 of Article 73 provides for the following:

- insurance intermediaries - individuals and private entrepreneurs, sales employees and sales managers of insurers, insurance intermediaries - legal entities;
- Representative offices of insurance and/or reinsurance brokers - non-residents and insurance intermediaries - private entrepreneurs before the beginning and throughout the entire activity (fulfillment of labor duties) (Law of Ukraine "About Insurance" 2021).

For the sale of insurance and/or reinsurance, products are required to have:

1) Full civil legal capacity;

2) Confirmation of the required level of knowledge in accordance with Articles 83 and 84 of this Law;

3) Impeccable business reputation (Reznikova 2009). Legal position of insurance agents as intermediaries in the insurance market of Ukraine (Reznikova, p. 73).

Therefore, the Legislator provides appropriate requirements for persons who have expressed a desire to carry out economic activity as insurance intermediaries. These requirements resolve the issue of the professional level of knowledge and training of insurance agents (intermediaries).

Moreover, section XII "Implementation of insurance and reinsurance products" of the said Law contains requirements for the title of the insurance intermediary; settlements under insurance and reinsurance contracts with the participation of insurance intermediaries; rewards for selling insurance and/or reinsurance products and contract of liability insurance of insurance intermediaries.

Taking into account the above mentioned, it could be concluded that insurance agents have a significant amount of obligations under the agency contract and must immediately fulfill them and adhere to the terms of the contract. At the same time, such obligations of insurance agents are limited to a certain territory. However, even such a restriction is not an obstacle to fulfilling the terms of the agency contract, as its aim is the effective provision of insurance services to consumers and the development of the insurance business.

At the same time, until recently (the end of 2021), there were a number of problematic issues at the legislative level related to the regulation of the activities of insurance agents and insurance intermediaries.

However, the aim of the adopted Law of Ukraine "About Insurance" (document No. 1909-IX) is systematizing and regulating the most problematic issues related to the economic activity of insurance agents (intermediaries).

Thus, it could be stated that the insurance in Ukraine is rapidly developing and spreading institute, which is facilitated by the adoption of new legal acts designed to ensure proper regulation of this activity.

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## THE PROSECUTION SERVICE IN GERMANY

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Germany holds significant influence in the European Union due to its strong economy. Its legal system, the Rechtsstaat, is unique. Unlike common law systems, the Rechtsstaat emphasizes the law's role in shaping society and individual rights. This concept goes beyond just following rules; it ensures that the state itself is bound by law. The German Basic Law prioritizes human dignity and empowers courts to enforce these rights. This is evident in Germany's response to terrorism, where the courts limited the government's power to ensure it followed international law (Carsten, 2012).

The public prosecutor's office in Germany occupies a fascinating, yet perplexing position within the legal system. Its constitutional status remains a topic of debate, with different theories reflecting the complex relationship between this institution and the various branches of government. Understanding the historical context, its evolution and the arguments surrounding the various theories on

prosecution nature is crucial to comprehending the role of the prosecutor's office in the legal system and examining the current landscape (Gropp, 2015).

The public prosecutor's office boasts a long and winding history in Germany. Its roots trace back to the 16th century, initially serving as an extension of the monarch's power. Prosecutors primarily focused on pursuing criminals and safeguarding the state's interests. However, the 19th century ushered in a shift towards professionalization. Legal education became mandatory for prosecutors, and they gained a degree of independence from the government (Carsten, 2012).

The aftermath of World War II necessitated a critical reform to ensure the public prosecutor's office would not fall prey to authoritarian control again. The Basic Law enshrined its independence, emphasizing that prosecutors are "bound only to the law" (Muhm, 2003).

Three main theories dominate the discourse surrounding the nature of the public prosecutor's office:

- **Executive Theory:** This view considers the office an integral part of the executive branch. Proponents argue that prosecutors enforce the law and represent the state's interests, aligning them with the executive function.
- **Judicial Theory:** This perspective positions the public prosecutor's office as an arm of the judiciary. Here, prosecutors strive for justice and operate independently from the government's influence.
- **Independent Theory:** This view proposes the prosecutor's office as a separate entity, independent of both the executive and judicial branches. It emphasizes upholding the law and protecting citizens' rights.

While the public prosecutor's office technically falls under the executive branch in Germany, it enjoys a significant degree of independence. Prosecutors are appointed by the government but can only be removed for valid reasons. They have considerable discretion in case selection and prosecution strategies (Siegismund, 2003).

Thus, the public prosecutor's office in Germany occupies a unique space, defying a clear classification within the traditional branch structure. Today the debate

about prosecutor's office development continues evolving. One thing remains clear: the public prosecutor's office plays a vital role in ensuring a fair and balanced application of the law in Germany (Boyne, 2014).

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## THE WELFARE STATE: HISTORICAL ANALYSIS OF CONSTITUTIONAL PRINCIPLE AND DEVELOPMENT PERSPECTIVES

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In order to characterize the welfare state Bottini (2013) claimed that its aims are to ensure a fair redistribution of wealth to fight poverty. In other words, that means that the welfare state aims to help anyone who cannot live relying only on the resources of his work and to ensure decent living conditions for every citizen. Some scientists prefer to call this concept "the social state" or "the redistributive state" that

seems more consistent with the secular nature of that assistance to the poor or someone in need.

Origins and development of the welfare state have far more than one-hundred-year-long history. Despite claiming that welfare states tended to emerge in societies in which capitalism was already well-established, Pierson (2006) confirmed that this concept pre-existed in some way in pre-capitalist societies. The term "welfare state" ("Wohlfahrtsstaat") was coined by German journalist Carl Nauwerck in 1844. Nauwerck defined this state as the one, which satisfies all societal needs. Being deeply influenced by the French Social Movement, German scientist and lawyer Lorenz von Stein defined this term as an institution promoting the well-being of people (Garland, 2022)(Martsikhiv & Horbachova, 2021). However, in 1891 Pope Leo XIII called on not to appeal to the welfare state because the State is after the man. He insisted that the man had already received from nature the right to live and protect his own existence before it was formed, (Bottini, 2013). In spite of the fact that there were different views on the nature of the welfare state and need for that kind of state, the welfare state developed and progressed having its ideological, philosophical and political-economic foundations.

Busso (2019) asserted that in practical way Germany also was the first country to consider social arrangements in a public framework, proving it by the activities of the "Iron Chancellor" Otto von Bismarck, who promoted such policies (compulsory social insurance schemes for sickness, accidents at work, old age and invalidity). In addition, The Federal Basic Law Of 1949 was one of the first constitutions to claim that Germany is a "social federal republic" (King, 2014). Eventually, this principle spread to other countries' constitutional dogmas: France, Italy, Japan etc. The general idea was that now the states had found a path to a society oriented to social progress and more just distribution of wealth – without all the sacrifices associated with the class struggle and constant social confrontations. By the end of the twentieth century a large sections of caring work (nursery schools and caring homes for the elderly), public transport and utilities, were socialized. However, it wasn't the end of the history of the social state development. Due to the 1970s economic, currency and oil

crises the present phase of neoliberalism began as well as attacks on the welfare state (Wahl & Irons, 2011).

In order to resolve the welfare state crisis scientists all over the world have been trying to find the solution to promote human development, social equality and overall economic growth. At the same time, according to Becker (2019) the digitalization tendency brings both opportunities and risks for the welfare state, causing labour changes, income imbalances, tax losses, but rise in healthcare and old-age care quality.

Rodrick (2015) tend to see the solution in the new theory of "the innovative state" which is clearly necessary in the twenty-first century. Such type of state is the one, which promotes society's well-being through investing in new technologies, innovators' potential and science progress. Guceac in his paper "The innovative state: a challenge for the future of the sovereignty of The Republic of Moldova" (2017) considers the constitutionalization of the concept of "innovative state" as an obligatory step during Moldova's European Union (EU) integration process. In fact, this kind of state should ensure the allocation of financial means to innovations and the marketing of discoveries, the selection and the promotion (in the administration bodies and expert groups) of only those who are capable of conducting innovative and creative activities.

To sum up everything mentioned above, the welfare state concept has a long and complicated history. Despite general recognition of the significance of the phenomenon of the welfare state in many countries across the world, the given concept has to be reconsidered. One of the most viable solutions here can be further study of the theory of "the innovative state", which is actual in EU-members and candidates countries. Taking into account the fact that Ukraine needs to cope with many reforms within its EU integration process, such way of development of Ukrainian social state seems reasonable and deserves further research in constitutional law studies.

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# SOME PECULIARITIES OF SEIZURE OF BIOLOGICAL ORIGIN TRACES FOR MOLECULAR-GENETIC EXPERTISE AT THE EXPLOSION SCENE

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Ukraine is currently experiencing a serious increase in its crime rate due to several factors. The main ones are the deteriorating economic situation of many citizens, which often leads to their involvement in criminal acts, as well as the availability of significant quantities of illegal weapons and explosives that have appeared on the black market as a result of the hostilities in the country. This situation continues to worsen, leading to an increase in the number of incidents involving explosive materials and weapons throughout Ukraine.

When finding explosive devices, their parts and explosive materials, it is necessary to bear in mind that they can be the source of various traces (odour traces, fingerprints, micro-objects (fibres), biological traces: blood, contact sweat traces, which are the objects of various forensic examinations, namely, odorological, fingerprinting, examination of fibrous materials, immunological and, including molecular-genetic). On this basis, a balanced approach to the examination of this category of objects, as well as the correct fixation and seizure of these traces, is the key to obtaining the most complete and relevant information for the detection and investigation of crime. In practice, some of the most common traces seized during the examination of the scene of explosions are traces of biological origin, which will be further sent for forensic molecular genetic examination in order to establish DNA profiles and further identification.

Forensic molecular genetic expertise is a study on the basis of special knowledge in the field of molecular genetics of traces (samples) of human biological origin in order to establish or exclude the origin of biological trace from a certain

person, to establish or exclude biological kinship, identification of unidentified corpses, which is or will be subsequently the subject of judicial proceedings.

Molecular genetic expertise as a type of expert speciality in biological types of expertise is enshrined in the List of Types of Forensic Expertise and Expert Specialities for which the qualification of forensic expert is awarded to employees of the Expert Service of the Ministry of Internal Affairs of Ukraine (Order, 2017).

The technique of molecular genetic research was developed by specialists of the State Research Expert-Criminalistic Centre of the Ministry of Internal Affairs of Ukraine in 2017, state registration was received on 18.01.2019 (Stepanyuk et al. 2019).

Let us consider the peculiarities of work with traces of biological origin on the example of inspection of the scene of an explosion (explosion of an ATM), since the number of such incidents is steadily increasing.

To increase the efficiency of investigative actions, an appropriate algorithm of actions has been developed, one of the stages of which we are most interested in, namely the detection and seizure of traces of biological origin:

- attention should be paid not only to traces at the explosion site, but also to traces and objects located on the paths of approach / departure of criminals;

- all traces are important (e.g., both identifiable and unidentifiable fingerprints);

- all places where the offender's footprints are suspected to have been left should be checked;

- all objects found should be examined for possible traces.

Thus, it should be borne in mind that a proper approach to each item seized at the scene, based on careful analysis, will help to isolate only that information which will be useful in the subsequent investigation. The unnecessary seizure of a large number of items in their original condition, especially large items, may not be appropriate. Instead, it is advisable to use forensic specialists to obtain a variety of trace information such as fibres, blood, hair and fingerprints. In addition, it makes sense to limit the seizure of items that carry information about multiple people (e.g.,

doorknobs or keyboards), as this will not yield positive results in further identification and will only result in the unnecessary expenditure of expert time and resources, as well as delaying the investigation.

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## GOVERNMENT REGULATION OF THE ELECTRICITY MARKET IN UKRAINE: HISTORY OF FORMATION, PROBLEMS AND WAYS TO SOLVE

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The electricity sector has undergone significant negative changes in the last years after the full-scale invasion and armed aggression of the Russian Federation against Ukraine. Since October 2022, the Ukrainian energy system is going through the most difficult times in the entire history of our state's independence.

The state is gaining extremely important own experience in restoring the energy system immediately after the destruction of various critical infrastructure facilities, as there is no similar experience in any country in the world. In general, the development of the electricity market of Ukraine is taking into account both the global experience of the development of wholesale electricity markets and the

peculiarities of the functioning of the unified electricity system of Ukraine (hereinafter referred to as UES).

In connection with Ukraine's adoption of a course towards European integration, including to ENTSO-E, the legislator adopted a number of normative legal acts establishing the rules of the new market and regulating the actions of its subjects. Despite the legislator's active work in the field of reforming the electricity sector of Ukraine, a number of problems remain unresolved.

On September 16, 2014, the Verkhovna Rada of Ukraine and the European Parliament simultaneously ratified the Association Agreement between Ukraine and the EU. This marked the beginning of reforming the electricity market of Ukraine.

In this document, the main directions of cooperation between the EU and Ukraine in the field of energy were foreseen including the creation of effective mechanisms for solving potential crisis situations in the energy industry. For today better state regulation is also needed in another direction - the development of competitive, transparent and non-discriminatory energy markets based on EU rules and standards through regulatory reforms.

One of the main ones was the Law of Ukraine dated April 13, 2017 No. 2019-VIII " On Electricity Market", which defines the legal, economic and organizational principles of the functioning of the electric energy market and regulates relations related to production, transmission, distribution, purchase sale, supply of electric energy to ensure its reliable and safe supply to consumers, taking into account the interests of consumers, development of market relations, minimization of costs for the supply of electric energy and minimization of negative impact on the surrounding natural environment (Law of Ukraine «On the electricity market», 2017).

In accordance with the provisions of this Law, the introduction of a new market model was foreseen from 07.01.2019, which will provide consumers with more options in choosing suppliers and methods of purchasing electricity. As a result, open tenders will become the main procurement procedure, and negotiated procurement will become an exception.

As mentioned, this model is new for Ukraine, but the process of legalization of the electric energy market in independent Ukraine began back in 1994.

Not taking into account the Constitution of Ukraine, the main normative legal act that settled this issue and established rules for all market participants was previously the Law of Ukraine "On Electricity" dated 10.16.1997 No. 575/97-BP. According to it, the sale of electrical energy produced at power plants was carried out on the wholesale market. It is important to emphasize that the operation of other wholesale electricity markets in Ukraine was prohibited (Law of Ukraine «On Energy Industry», 1997).

According to Article 2 of the current Law of Ukraine No. 2019-VIII, the legal basis for the operation of the electric energy market is: the Constitution of Ukraine, this Law, laws of Ukraine "On alternative energy sources", "On combined production of thermal and electric energy (cogeneration) and the use of waste energy potential" , "On the National Commission carrying out state regulation in the spheres of energy and communal services", "On natural monopolies", "On the protection of economic competition", "On the protection of the natural environment", "On energy efficiency", international treaties of Ukraine, consent the binding nature of which was given by the Verkhovna Rada of Ukraine, and other acts of the legislation of Ukraine (Law of Ukraine «On the electricity market», 2017).

Therefore, it can be concluded that the legislative framework is currently quite extensive and has undergone many changes and modernization since its formation. It is also worth agreeing with S.S. Nemchenko, who points out the expediency of removing part of the norms from the sub-legal level to the legal level, in particular, regarding the electricity supply contract (Nemchenko, 2009).

Since July 1, 2019, the electricity market of Ukraine has been operating according to the European (liberalized) model. This significantly expands opportunities to meet the needs of suppliers, consumers and producers of electricity, provides an opportunity to ensure the implementation of competitive relations between market participants and includes a number of organizational segments. The

latter include: bilateral contracts market, day-ahead market, intraday market, balancing market and ancillary services market.

The new model of the electricity market is significantly different from the one that existed before its introduction. Therefore, they differ as follows: 1) the possibility of concluding direct contracts between market participants; 2) emergence of new market subjects and new principles of organizing their interaction 3) bilateral auction instead of unilateral submission of bids; 4) distribution of bandwidth is based on the principles of competition; 5) balancing market as opposed to economic dispatching 6) responsibility of market participants for their imbalances 7) separation of the cost of providing subsidiary services from the cost of electricity; 8) compilation and submission of schedules is decentralized; 9) dispatching is decentralized; 10) introduction of new market segments (Blinov, 2021, p. 21-22).

Therefore, previously the wholesale market of electric energy of Ukraine functioned on the basis of a contract, the parties to which were economic entities related to: 1) the dispatching (operational and technological) management of the UES of Ukraine, and today it is carried out by the state enterprise "National Energy Company" Ukrenergo"; 2) production of electrical energy at power stations; 3) transmission of electrical energy through trunk and interstate electrical networks; supply of electrical energy by local (local) electrical networks; 4) wholesale supply of electric energy.

It is important to emphasize that distribution companies are separate from producers, suppliers and consumers. It was the introduction of this model that ensured the appearance of competition in the electricity market. New market participants have the right to trade the resource on the four platforms that were already named earlier.

It should be emphasized that the market segment of bilateral contracts in Ukraine does not have a single, separately allocated platform for concluding agreements. According to the current legislation: any two market participants have the right to enter into an agreement on the purchase and sale of electric energy based on their own interests. The only requirement for such agreements is the mandatory

registration of the agreement in terms of volumes and time of implementation in the NEC "Ukrenergo". In addition, "Ukrainian Energy Exchange" is licensed to provide services for conducting auctions and concluding contracts for the purchase and sale of electric energy. The sale and purchase of electric energy is carried out under bilateral contracts, the terms of which are independently determined by the parties of the contract or are regulated by the state regulatory body in the field of electric power within the limits provided by the Law " On Electricity Market ". In addition, participants in the electricity market have the opportunity to agree on a certain "flexibility" of electricity supplies for one or both sides of the contract (Blinov & Parus, 2022, p.60).

Taking into the consideration all the above we could conclude following. Since July 1, 2019, Ukraine has switched to a liberalized model of regulation of the electricity market. The legislative base is quite extensive, but contains many gaps, as a result of which there are significant problems of state regulation of this market. Important problems are: implementation of international standards in the field of electricity; violation of the principles of activity of the NCRECP; pricing; RES financing; lack of legislative consolidation and practical implementation of the responsibility of RES electricity producers for their imbalance; lack of methods for forecasting the consumer's own demand for electric power.

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## LEGAL ISSUES OF PERSONAL DATA PROTECTION IN MESSENGERS

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In the modern world, where digital technologies are integrated into all spheres of our lives, the protection of personal data is extremely relevant. The General Data Protection Regulation (GDPR, Regulation (EU) 2016/679) has been the standard in this area for many years, establishing strict requirements for information processing. Adopting these principles is a fundamental condition for the development of modern digital products that use personal data, including messaging services.

In the context of Ukraine, where the European development vector obliges the adoption of corresponding standards, the examination of this topic in the context of messengers proves to be particularly important. Additionally, ensuring the adaptation of domestic requirements to European data protection standards will facilitate Ukraine's integration into the Digital Single Market, which will contribute to an overall improvement in the economic situation.

The focus of this paper is on messaging apps, which, in many cases, are already displacing phone conversations, SMS exchanges, or email correspondence. Finding diverse applications in both domestic affairs and business, messaging apps may have certain pitfalls in the context of the legal protection of personal data.

It is important to understand that in some instances, non-compliance with the data protection requirements stipulated by the GDPR can lead not only to significant fines but also to criminal proceedings. This warrants particular attention for those who use messengers for business communications with partners, employees or end customers.

Furthermore, due to the extraterritorial nature of GDPR regulation, freelancers, sole proprietors, and legal entities working with the data of EU citizens automatically become data processors, thus, they must understand the legal risks associated with using messaging apps.

There are several criteria a communication application must meet to comply with European data protection requirements, specifically: 1) the application uses end-to-end encryption; 2) the messenger should not read users' address books; 3) personal data cannot be used for advertising purposes; 4) the provider's servers are located within the EU or the European Economic Area, or the requirements for data transfer to third countries are met. Sometimes, this list is supplemented with other recommendations that are not directly required by GDPR but enhance user security: 1) storing data locally, rather than in the cloud; 2) an open protocol for the exchange of instant messages; 3) the right to be forgotten and to delete an account; 4) the ability to hide user actions (for example, online status, message typing, or read receipts).

WhatsApp is the most well-known and popular messenger worldwide. At the same time, Meta, the owner of this messenger and a number of other digital services, has been repeatedly discredited for violating GDPR requirements, particularly for the unjustified collection of personal information for advertising purposes without sufficient legal basis (Lomas, 2023; Satariano, 2023).

While messages are encrypted and not disclosed to third parties, Meta uses WhatsApp metadata within its own «ecosystem» to build profiles of its users for the purpose of displaying personalized advertising in other company projects, such as Facebook or Instagram. Moreover, users do not have the right to opt out of such information collection, as they are compelled to give their consent to the relevant user

agreement concerning data processing in other projects, or cease using the messenger altogether.

Another claim against WhatsApp is the app's ability to read users' address books to show them contacts who also use WhatsApp. This means the app can process data of individuals stored on the user's device who have never used Meta products. Clearly, in such a procedure, individuals listed in the user's address book do not give consent for the processing of their personal data, thus the transfer of their data to Meta is illegal (Stockfisch, 2023). Moreover, information regarding phone numbers is sent to the servers unencrypted, non-anonymously, and without pseudonymization. Additionally, the servers processing personal data are located in the USA, requiring adherence to additional measures when transferring personal data of European citizens outside the EU or the European Economic Area (Todorovski, 2023).

Experts note that the WhatsApp Business application is more adapted to GDPR compliance, yet it can only be used for business communication under a set of conditions: 1) Use exclusively on a work mobile phone; 2) Prohibition of access to the address book; 3) Internal communications should not be processed through the application; 4) Clients must receive your privacy policy when they first contact the company. Conversely, the WhatsApp Business API offers companies the ability to use a special interface (interaction protocols) for working with WhatsApp Business, allowing for more precise regulation of what data is processed, how, and on which servers by the application (Stockfisch, 2024).

Regarding encryption, it is important to mention that WhatsApp currently supports end-to-end encryption for conversations (WhatsApp website). However, by default, it is disabled for backing up message history and media files on Google Drive and requires activation in the settings. Such nuances need to be checked in other messengers intended for business communication. Additionally, conversations and media files are still stored in one of Meta's data processing centers. If one of these data centers is compromised, responsibility under GDPR still falls on the business whose data was compromised (Everphone website).

It is additionally noted that end-to-end encryption for WhatsApp, Facebook Messenger, and Viber can be decrypted by the companies and handed over to third parties (for example, law enforcement agencies), as the decryption keys and chat histories are stored on their servers. Regarding the Telegram messenger, it supports end-to-end encryption and local storage of chat history (on the user's device, not on servers) only in secret chat mode (Malokhatko, 2022). Signal and Threema are often recognized as the most secure in this context, with the latter not even requiring a phone number for registration. Some ratings also consider RocketChat and Wire among the most secure and GDPR-compliant messengers (Beisinghoff, 2023).

In practice, companies encounter other problematic situations when using messengers. For instance, companies often share employees' phone numbers without obtaining their direct consent when employers add individuals to corporate chats. This deprives people of the «right to be forgotten», as deleting an account does not remove information about them from the chats (including messages already sent). Another common situation occurs when an employee leaves the company but still has access to the chat or group – in many cases, individuals can still access these groups and do whatever they want with messages, files, and personal phone numbers (McCaw, 2020).

Thus, due to a number of advantages, the use of messengers is increasingly displacing other forms of communication. Business is no exception to this process, as its competitiveness directly depends on the ability to establish convenient business communication with partners, employees, and clients. At the same time, the use of messengers has a downside, as popular services create numerous risks and issues with GDPR compliance. Since businesses become data processors when they start working with the personal data of partners, employees, or clients, it is important to increase awareness of the legal nuances of using messengers in accordance with GDPR. Moreover, business representatives need to solve the dilemma between using the most popular but «risky» messengers, or the most secure, albeit less popular ones.

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## THE CRIME OF GENOCIDE: EXPANDING INTERNATIONAL EXPERIENCE IN VIEW OF THE EVENTS IN UKRAINE

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On February 24, 2022, a full-scale armed attack by Russian troops on the sovereign land of Ukraine began. On the same day, the President of Ukraine issued a Decree on the introduction of a legal regime of martial law throughout the territory of Ukraine, which was supported by the Verkhovna Rada of Ukraine. The legal regime of martial law was repeatedly extended. An important role in such difficult times is given to criminal law and criminal legislation, which is always one of the first to respond to emergency situations in the state. The legal consequence of the introduction of martial law is the strengthening of criminal liability for the commission of certain criminal offenses, the danger of which is caused by the introduction of a special regime in the state.

Legal regulation of martial law is carried out on the basis of the Constitution of Ukraine, the Law of Ukraine "On the Legal Regime of Martial Law" dated May 12, 2015 No. 389-VII). According to the Law of Ukraine "On the Legal Regime of Martial Law" "Martial law is a special legal regime introduced in Ukraine or in some

of its localities in the event of: 1) armed aggression or threat of attack; 2) danger to the state independence of Ukraine, its territorial integrity and provides for granting the relevant state authorities, military command, military administrations and local self-government bodies the powers to avert the threat, repulse armed aggression and ensure national security [1, Art. 1].

According to Article 442 of the Criminal Code of Ukraine, genocide is an act intentionally committed with the aim of the complete or partial destruction of any national, ethnic, racial or religious group by taking the lives of members of such a group or inflicting serious bodily harm on them, creating living conditions for the group, designed for its complete or partial physical destruction, reduction of childbearing or its prevention in such a group or by forceful transfer of children from one group to another.

Since the beginning of the full-scale invasion, the Russian Federation has committed a series of genocidal acts that are crimes under the UN Convention on the Prevention and Punishment of the Crime of Genocide. This was stated by the American researcher of modern Russian genocide in Ukraine, Christopher Atwood [2].

Since the beginning of the full-scale invasion, the Russian Federation has been conducting periodic missile attacks on peaceful Ukrainian cities, killing civilians and destroying Ukrainian infrastructure.

The Verkhovna Rada of Ukraine adopted the Resolution on the Statement of the Verkhovna Rada of Ukraine "On the Russian Federation's Commitment of Genocide in Ukraine", which recognized the actions of the Russian Federation as genocide of the Ukrainian people [3].

The key element in the recognition of genocide is precisely to prove the presence of the intention to destroy (total or partial) a nation, ethnic group, etc. An element of intent to destroy a group is the collective nature of the victim - the destruction of an entire community due to hatred for it. It is important that the crime of genocide cannot be committed by accident.

In 2014, the armed conflict in the Donetsk and Luhansk regions, among many other problems, presented the Ukrainian legal system with difficult tasks, the solution of which fell to domestic courts. It is from the readiness of judges to correctly understand the application of the provisions of international humanitarian law to the armed conflict in Ukraine, the interpretation of the relevant norms of international law and national legislation, and their direct application that the Ukrainian state fulfills its obligations both to its citizens and to the international community. society as a whole. So, since 2014, we can legitimately talk about Russia's aggression against Ukraine, which resulted in the aggressive rejection of the Autonomous Republic of Crimea and the city of Sevastopol from Ukraine, as well as the military occupation of certain areas of the Donetsk and Luhansk regions. These actions are a gross violation not only of the norms of national legislation, but also of the principles of international law, because they encroach on peaceful relations between states and violate international security.

But already on the night of February 24, 2022, V. Putin in his speech "justified" the attack on our state, calling Ukraine "the historical territory of Russia." And he named "denazification" as one of the reasons for the war. In fact, according to the statements of high-ranking officials of the Russian Federation, we are talking about the expansion of Russian borders and the annexation of part of the territory of Ukraine. The politicians' public speeches boil down to one thing: Russia is reclaiming its own, as a restoration of historical justice. Moreover, in the understanding of Putin and the leadership of the Russian Federation, a "Nazi" is someone who identifies himself as a Ukrainian, and therefore "denazification" actually aims to destroy the Ukrainian nation, to kill those who do not agree with the Kremlin's imperial policy.

After the invasion, the Russian president declared that modern Ukraine was "artificially" created during Soviet times. So, early in the morning of February 24, 2022, the head of the aggressor country decided to conduct a "special military operation" on the territory of Ukraine. After that, Russian troops began shelling Kyiv, Kharkiv, Odesa, Mariupol, Dnipro and many other cities. Russian President V. Putin also emphasized that Ukraine was "completely created by Russia," that "there is no

Ukraine." This is nothing but an application for the complete destruction of our nation and state. Putin's "denazification" means the physical liquidation of all those who do not recognize Ukraine as part of Russia. And the so-called "demilitarization" involves the destruction not only of the Ukrainian army, but also of the Ukrainian state in general and all its institutions.

In many cases, Russians are calling for and killing Ukrainians during the 2022 Russia-Ukraine war just because they are Ukrainians. An article calling for the genocide of Ukrainians appeared on the website of the Russian state agency "RIA Novosti". Polish President Andrzej Duda in Auschwitz compared the crimes of the Russians in Ukraine to the events of the Holocaust. During the speech, the head of the Polish state noted that the crime of genocide against the Jewish people occurred because of the hatred that the Nazis instilled in the German people. He noted that now the same hatred towards Ukrainians can be seen on the part of Russians. Deputy of the Russian State Duma, Oleksiy Zhuravlev, said that for "denazification" it is necessary to destroy two million Ukrainians. Deputy of the State Duma of the Russian Federation from "United Russia" Oleh Matveichev stated the need to eliminate such concepts as "Ukraine" and "Ukrainians". Numerous conversations of the Russian military calling for the killing of Ukrainians were intercepted. Deputy Chairman of the Security Council of the Russian Federation, Dmytro Medvedev, said that Ukraine may not be on the world map in two years.

In April, the parliamentarians of Estonia, Latvia and Canada recognized Russia's first actions in Ukraine as genocide. On May 10, the Seimas of Lithuania unanimously recognized Russia as a terrorist state, and on May 11, the Senate of the Czech Republic adopted a resolution recognizing the crimes of the Russian army in Ukraine as genocide of the Ukrainian people [4].

But in order to recognize the actions of the Russian Federation as genocide of the Ukrainian people, a decision of an international court is necessary, preferably the International Criminal Court in The Hague.

The decision of the court, especially the international instance, will be a strong argument for wider recognition of Russia's actions as genocide of Ukrainians at the

political level around the world. In addition, this is how Ukraine will act in the opposite way to what the political leadership of the Russian Federation is doing now, which is trying to blur and devalue the very concept of genocide, using it for political purposes at every convenient opportunity, for example, accusing Ukraine of genocide of the people of Donbas [6].

The acts of genocide of the Russian Federation are manifested in war crimes, torture, and the seizure of territories. In particular, after the liberation of cities such as Izyum of Kharkiv region, Bucha of Kyiv region, Yagidne of Chernihiv region, mass burials of living people were found, which is one of the most heinous crimes. The same thing happened in the territory of the liberated Kherson region. The Russians set up torture chambers there, killing both civilians and military personnel. It is only necessary to remember how in 2022 they shot innocent people who were evacuating across the river. Massive missile strikes on peaceful Ukrainian cities, in particular the recent strikes on Odesa and Kharkiv, should also be considered genocide. During the recent attack on Odesa, children were killed. Russians also commit sexual violence in the occupied territories.

It should also be noted that Vladimir Putin was declared wanted by the International Criminal Court almost a year ago.

He was found guilty of illegally deporting Ukrainian children to the territory of Russia.

Therefore, we must conclude that the Russian war is not only a war of aggression, but also a genocidal campaign aimed at the destruction of Ukrainians as a national group, as well as inciting hatred of Ukrainians by Russian state media and officials, which led to genocide in the course of aggression against Ukraine . The goal of Russia's military aggression in Ukraine is the systematic and consistent destruction of the Ukrainian people, their identity, and the deprivation of their right to self-determination and independent development.

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## THE IDEA OF THE COMMAND RESPONSIBILITY DOCTRINE

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The liability of commanders during armed conflicts is much more complex than that of ordinary servicemen due to the scope of their powers and responsibility. This refers not only to the individual responsibility of the commander, for example, for ordering, aiding and abetting, organising and directly perpetration, but also to cases where commanders may be held responsible for the unlawful acts of their subordinates, which is understood as the doctrine of command responsibility. In more details, command responsibility can be interpreted as the possibility of holding military commanders (civil superiors) accountable for failing to properly control their

subordinates who have committed crimes (Centre for International Law Research and Policy, 2016).

The concept of command responsibility has been developing and filling with new content for quite a long time: from ancient China to the present. Such a long historical development of this legal structure both at the national level (Germany, the USA, France, China, etc.) and at the international level directly led to the definition of the idea of command responsibility. As a result, this concept has been enshrined both at the customary level and the level of international treaties and statutes of international judicial institutions. First of all, we can mention the provisions of the Geneva law, which provides for command responsibility. For example, Article 86(2) of Additional Protocol I states that the fact that a violation of the Geneva Conventions and Additional Protocol I was committed by a subordinate does not relieve his superiors of criminal or disciplinary responsibility if they knew that they had information in their possession which would have enabled them to conclude, in the circumstances existing at the time, that such a subordinate was committing or intending to commit such a violation, and if they failed to take all practicable measures within their power to prevent or stop the violation. Article 87 of Additional Protocol I, at the same time, defines the duties and obligations of military commanders in relation to their subordinates: superiors are obliged to prevent, and, if necessary, to suppress and report to the competent authorities serious violations of the Geneva Conventions and Additional Protocol I committed by subordinates (Additional Protocol I, 1977). Only if the commander fails to fulfil these duties, in the event of their failure, does he or she risk being held criminally liable for inaction. An equally important moment in the recognition of the doctrine of command responsibility was its recognition at the level of customary international humanitarian law (ICRC, 2005).

For a long period of time, there have been different opinions on the nature of command responsibility, as its content has been interpreted differently at different stages of development. Guenael Mettraux (2008) notes that modern jurisprudence defines command responsibility as a type of complicity for the criminal omission of a

commander in relation to the actions of his subordinate servicemen. The same position is confirmed in the Prosecutor v. Bemba decision, which directly states that Article 28 of the ICC Statute "provides for a type of complicity by which superiors may be held criminally responsible for the crimes of their subordinates" (Prosecutor v. Bemba, 2016). In accordance with the ICC's position in the above decision and taking into account the position of the scholar, it can be concluded that, according to the concept of command responsibility, a commander may be held criminally liable not for his participation in the commission of crimes by his subordinates, but for his personal and culpable failure to take necessary and reasonable measures to prevent or punish these crimes (Guenael Mettraux, 2008).

In our opinion, it is the understanding of command responsibility as the responsibility of a commander for his/her omission towards subordinates that is the most relevant approach to understanding this doctrine, as it is in line with the current development of international jurisprudence, as well as the basic principles of international criminal law, in particular, the principle of individual responsibility. In support of this thesis, we can cite the example of the ICTY decision in Prosecutor v. Oric, where it was stated that the responsibility of a commander for the actions of his subordinates does not mean that he bears the same responsibility as the subordinate who committed the crime, but rather that the commander is individually responsible for his own omission (Prosecutor v. Oric, 2006). This opinion is also shared by many international lawyers, for example, K. Ambos, W. Shabas, who derive the main idea of this concept from the violation by a commander or civilian superior of the provisions of international humanitarian law regarding the duty to exercise control over subordinates and the inability to prevent or suppress the commission of crimes arising from the said articles of Additional Protocol I (Ambos, 1999).

In general, command responsibility is in many ways a multicomponent and extra-format legal phenomenon. It is also worth citing the ICTY case, which states that the concept of command responsibility is itself a *sui generis* form of responsibility for omission, and is a unique concept aimed at holding a commander responsible for failure to take necessary active actions in relation to his subordinate

soldiers (Prosecutor v. Halilovic, 2005). In view of the above, it is rather difficult or impossible to provide an explanation for such a legal phenomenon within the framework of the usual types of complicity, given the nature and specifics of this doctrine. That is why this concept is still being developed and is quite specific in relation to other forms of individual liability of criminals and has a number of elements necessary for its establishment.

In conclusion, it may be noted that the definition of the idea of the doctrine of command responsibility is still a controversial issue, as this concept is currently under active scientific and practical substantiation by both international scholars and the judges of the International Criminal Court, taking into account the developments of other international tribunals in the past. In our opinion, for the most comprehensive analysis of the concept of command responsibility, it is essential to take into account the historical evolution of this legal framework. Throughout its development one can observe the progression from the direct responsibility of the commander for the actions of their subordinates as if they were their own, to a more indirect concept of the commander's accountability for the crimes of their subordinates particularly through acts of omission.

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## THEORETICAL AND LEGAL FOUNDATIONS OF THE CONCEPT OF 'TERRITORY OF THE STATE'

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The full-scale invasion of Ukraine by Russia brings to the forefront the examination of the concept of "territory of the state" and its normative-legal consolidation. This necessitates an analysis of both legal regulation and theoretical approaches by domestic and foreign scholars, as the contemporary understanding of the concept of "territory of the state" has been shaped by various factors of domestic and international nature, accompanying the formation and development of the state as a socio-legal phenomenon. The latter is traditionally viewed as the unity of three components - territory, population, and sovereign authority. In this context, territory represents the space within which the formation of a large social community - the people (nation) - takes place, possessing a universally recognized right to self-

determination and the formation of its statehood. This space simultaneously defines the areas of the extension of state authority.

In political science, several main historically formed approaches to understanding the category of "territory of the state" are recognized, among which the following are highlighted.

The Oxford English Dictionary (OED) defines the modern state territory as the organized division of a country under the control of a specific government.

R. Chellen defined territory in political science as a space organized by a political structure, which is a key component of the state along with the people, society, and authority (Chellen, 2005).

V. Lypynskyi further developed this concept, asserting that territory is an important element of state policy and one of the material factors necessary for the formation of an independent state. In his article "Letters to the Farmer Brothers," V. Lypynskyi notes that territory is a key element in the formation and existence of an independent state and state life. He regards territory as a significant material factor in state politics, noting that "territory itself is not important, as one can have a wonderful territory but never gain power on it or become a state." The territory of the state also plays a crucial role in shaping national identity, as it determines the type of economic activity and fosters interaction among people, which is solidified in a common national culture and historical memory of the nation (Lypynskyi, 1995). We fully support the aforementioned position, considering the completeness of its definition.

The concept of state territory encompasses not only physical space but also all aspects related to the organization of state power and the assurance of state sovereignty over it. It is a space where the state exercises its full authority and controls all types of human activities, as well as resources and the environment (Smith, 1994). The territory of the state is the sphere where it ensures territorial supremacy and sovereignty, which signify its authority over this territory and independence in internal and external matters (Vilkhovska, 2006).

During the historical evolution of the theoretical and legal foundations of the concept of "territory of the state," there has been a transformation in the legal regulation of territories. Today, there exists a series of international legal instruments that guarantee the belonging of territories to states and regulate their status. However, such regulation is not comprehensive and does not provide a complete legal algorithm for resolving territorial-jurisdictional conflicts. Therefore, national legislation plays an extremely important role. The status of both the state territory as a whole and its individual components is defined in the constitutions of many countries, which ensures a more precise and detailed legal regulation.

According to Article 2 of the Constitution of Ukraine, the sovereignty of Ukraine extends to its entire territory. In constitutional law, state sovereignty is understood as the political and legal property of the state to independently and independently perform its functions on its territory and beyond on the international stage, regardless of the authority of other states. Components of the state territory include land (territory); rivers, lakes, artificial reservoirs, inland and territorial waters washing the territory of the state (water territory); airspace above land and water territories, up to outer space (air territory); space beneath land and water territories, up to a technically accessible depth (underground territory); continental shelf; exclusive (marine) economic zone. In addition, objects equated to the territory of the state are distinguished (maritime and air vessels, spacecraft and stations operating under the flag of the state, pipelines, submarine cables, offshore oil rigs, etc.).

Thus, in characterizing the modern theoretical and legal foundations of the concept of "territory of the state," three main aspects should be identified:

1. Geographic aspect: This pertains to parts of the Earth's surface belonging to a specific state, characterized by size, geographical extent, population, landscape features, the presence of natural resources, rivers, access to the sea, etc.

2. Socio-political aspect: This refers to the space of self-determination of the people, within which popular sovereignty is realized, ensuring and protecting the living space of the state's citizens.

3. Public-legal aspect: This refers to the space for the exercise of state sovereignty, one of the foundations of the organization and exercise of public authority.

The territory of the state is an integrating factor that provides the material basis for the organization of the people and the exercise of public authority.

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## PROBLEMATIC ASPECTS OF LANGUAGE REGULATIONS IN UKRAINE

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Defining the legal status of the use of a particular language in a heterogeneous society is always difficult given the lack of social consensus on the proper approach to the issue. In Ukraine, language legal status is conditioned by security risks, European integration and social factors that comprehensively shape the national context of the functioning of a particular language.

Indeed, the Framework Convention for the Protection of National Minorities establishes the obligation of states to maintain favorable conditions to comprehensively assist various minorities in protecting their linguistic rights, but, unfortunately, the text of the Convention does not regulate the procedure for what to do when a minority language is a threat to national security, and when other countries do not adhere to the democratic values enshrined in the document, which should be mutually respected. Even more specific document, which raises the question of languages in the European area, is the European Charter for Regional or Minority Languages. In the preamble, it emphasizes "protection and promotion of regional minority languages […] based on the principles of democracy […] *within the framework of national sovereignty and territorial integrity*". Considering this, and the way how this provision of the preamble is structured – as a condition, that such a promotion should be *based* on the democratic principles, the question which I am touching upon is: whether a regional minority language could be refuse such protection or at least promotion, if the condition "based on […] democracy" is not observed. What's the difference of this document in comparison to the previous one, is that it contains the provision about existing obligation. Article 5 of the European Charter for Regional or Minority Languages says, that it is the responsibility of the parties to interpret and apply the charter in a way, which does not contradict "the purposes of the Charter of the United Nations or other obligations under international law, including the principle of the sovereignty and territorial integrity of States". However, any other responsibility except for the periodical reports of the progress in the application is not foreseen, which means that no sanctions for violations of the basic democratic principles are determined.

Despite the ongoing regulatory and public debate on the proper legal regulation of language relations in Ukraine, current events, namely the full-scale invasion of Ukraine by the russian federation, have significantly contributed to the spread of the use of the Ukrainian language in various spheres of life, thus ideologically legitimizing the legislative norms that were introduced in 2019 for a larger number of people. In this regard, it should be emphasized that the above-mentioned regulations

concerned the mandatory use of the Ukrainian language in the spheres of state service and education, and although they did not affect private communication, the implementation of the law was not fully satisfactory, as evidenced by the practice of the language ombudsman, which appeared precisely against the background of language institutionalization. As of 2024, the situation has improved significantly, although it is not completely ideal still, which, in our opinion, indicates the awareness and social sense of the importance of the state language in the Ukrainian society.

In this regard, the appropriateness of government interference in language regulation deserves special attention. We are talking about the Government's decision to change the Ukrainian spelling, which was later challenged in court. Although the legal component of this issue is very interesting, its moral basis is even more, since the spelling changes concerned not only the literal spelling of words but also ideological content, such as the use of feminine gender, which once again confirms the social role of language.

However, the problem of language in Ukraine does not end with the use of the Ukrainian language alone, but rather confidently reaches a new level, which is to grant English a special status in Ukraine. We are talking about the draft Law "On the Use of English in Ukraine", the actual purpose of which is to integrate the Ukrainian market into other countries, as English is the language of the business community. Another prerequisite for such regulatory step was the need to comply with the European standards of the general national language policy and create conditions for real European integration with a complete move away from the Russian-language information environment. It may seem that this approach is quite progressive, but even this initiative has been criticized. Among the arguments against such legislative ideas, we can highlight the security factor focusing on the need to determine whether granting legal privileges for the spread of English will harm the state interests and information policy in the future. Although it is difficult to give an unequivocal answer, we believe that the mandatory introduction of English into various spheres of public life will only have a positive impact on the future Ukrainian market, provided that the status, limits of influence, use and ratio of English to the state language are

clearly defined in the legislation. An important guarantee will be to regulate the optional value of English, its instrumental nature and its auxiliary function, which is to expand Ukrainian goods, develop domestic science and effective European integration, rather than to grant English a special default status without specifying the purpose of such regulation.

To summarize, the state's language policy is an interactive phenomenon and affects a large number of social spheres, including security and economy, and it is in public interest to have a legal consistency in language legislation. Proper legal regulation of the boundaries of the spread of the status and use of a language, combined with social approval of the relevant legal approach, serves as a guarantee of its effective implementation. Granting a special status to English should facilitate the economic and cultural integration of Ukrainian products into a large foreign market without harming the national interests of the state.

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## FORCIBLE DISPLACEMENT OF POPULATION IN THE CONTEXT OF INTERNATIONAL HUMAN RIGHTS LAW

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The term "forcible displacement" refers to situations where individuals have been compelled to leave their homes, either by being forcibly removed, evicted, or relocated to a place not of their choosing, whether by State or non-State actors. The defining factor is the absence of will or consent (Handbook for the Protection of Internally Displaced Persons, p. 137).

Displacement may pose a threat to the life, liberty, and security of displaced persons, which are the rights guaranteed by Article 3 of the Universal Declaration and Article 6 of the International Covenant on Civil and Political Rights. In some cases, displacement could be considered cruel, inhuman, or degrading treatment, as stated in Article 5 of the Universal Declaration and Article 7 of the International Covenant on Civil and Political Rights.

Article 12 of the Universal Declaration and Article 17 of the International Covenant on Civil and Political Rights aim to protect individuals from arbitrary interference with their home or private life. Additionally, Article 17(2) of the Universal Declaration emphasizes that no one should be deprived of their possessions without just cause. Additionally, Article 25(1) recognizes that everyone has the right to a standard of living that is sufficient for their health and well-being, as well as that of their family. Likewise, comparable provisions can be found in the International Covenant on Economic, Social, and Cultural Rights. It provides for the protection of the family (Article 10); the right to an adequate standard of living, housing, and food (Article 11); the right to physical and mental health (Article 12); the right to work (Article 6); the right to education (Article 13); the right to freely pursue one's economic, social, and cultural development (Article 1); the right to take part in cultural life (Article 15). It is important to acknowledge that forced displacement may result in some degree of violation of these rights.

Displacement may potentially be in violation of several provisions of the International Covenant on Civil and Political Rights, including the principle of self-determination (Article 1, as well as Article 1 of the International Covenant on Economic, Social, and Cultural Rights), the right to legal personality (Article 16), and

the freedoms of thought (Article 18), expression (Article 19), association (Article 20), and assembly (Article 21). As per the Covenant, Articles 6, 7, 16, and 18 are non-derogable, even in situations of public emergency.

It is crucial to recognize the significance of 'freedom of movement' and the prohibition of exile, particularly in the context of displacement. Displacement can limit an individual's freedom of movement and their right to return home. This can occur whether they are confined to refugee camps, resettlement villages, or welfare centers. The Genocide Convention may apply to cases of both internal and external exile if such actions result in genocide or threaten the physical survival of the group. It is important to note that the Convention's criteria for such cases are strict and may not be met in all instances of displacement (Stavropoulou, 1994, p. 735-737).

Forcible displacement exceptions or derogations are based on human rights law, specifically freedom of movement, adequate housing, and freedom from arbitrary interference. It is important to note that forcible displacement is considered illegal or arbitrary displacement only if coercion violates national or international law.

There are four situations that may be considered arbitrary displacement: 1) if displacement is not based on lawful grounds under international law; 2) if minimal procedural guarantees are not complied with; 3) if the manner in which the eviction is carried out violates other human rights, such as personal liberty or constitutes inhumane and degrading treatment; or 4) if the effects of the displacement have a negative impact on other human rights (Mac Alliser, 2017, p. 145).

Forcible displacement is generally considered justifiable under human rights law only in exceptional circumstances and subject to strict conditions. It must be legally provided for and necessary and proportionate to achieve a legitimate aim, such as protecting national security or public order, public health or morals, or the rights and freedoms of others.

Even when displacement is deemed necessary, it is important to ensure that it is carried out in a manner that upholds substantive and procedural safeguards, and that the affected individuals are treated with dignity and safety. Competent authorities

must be responsible for making any decisions regarding the displacement of individuals or communities. Those who are affected must be informed of the reasons and procedures for displacement, and given the opportunity to challenge the decision, including through independent judicial review. Whenever possible, it is important to seek the informed consent of those affected, ensure their participation in decision-making, and provide fair compensation. Displacement should never violate the affected individuals' rights to life, dignity, liberty, and security.

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# THE IMPACT OF THE US ADVERSARIAL CRIMINAL PROCEDURE ON THE DEVELOPMENT OF EVIDENCE LAW

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The adversary system, founded on the idea that a disagreement between two opposing parties will reveal the truth, with each party presenting their case and supporting documentation to an impartial decision-maker, is known as a legal system used in the United States and other countries that primarily follow the Anglo-American legal tradition. Langbein (1996) called the rapid development of adversarial criminal procedure in the last quarter of the eighteenth century a pivotal event in the formation of the modern law of evidence. He briefly characterized the history of the development of criminal procedure and adversary system in England and America in the 18th - early 19th centuries by distinguishing the three main stages (Langbein, 1973). The first stage called the *'accused speaks' or 'altercation' trial*, when a person was accused by a victim or witnesses and the accused had to tell his/her story to defend himself/herself or to 'altercate', there were no defence lawyers that time. Lawyers were only permitted to attend to speak about issues of law, which was never the case. Mostly the prosecutor was also unrepresented. A Justice of the Peace examined the accused before trial and confessions was obtained regularly. It was prohibited for the accused to remain silent. In case of silence, the judge would not have recommended clemency, the jury would have assumed the accused was guilty. The rules of evidence were essentially absent. Execution was a typical punishment provided in treason cases that time. A series of executions of innocent defendants after treason trials caused the Parliament in 1696 to allow counsels to represent defendants in treason cases only. Since 1730 counsels were allowed to represent the accused also in felony trials. The appearance of lawyers at trials marked

the beginning of the second stage called *'lawyerization'.* The defence lawyer obtained the right not only to argue questions of law but also to cross-examine prosecution witnesses. Presence of lawyers at trials caused the enforcement of the rule excluding proof of defendant's bad character and prior criminal acts, rules against the admission of involuntary confessions. The hearsay rule with several exceptions were adopted. A rule requiring the corroboration of accomplice testimony appeared. Cross-examination of defendants and arguing issues of fact had still been prohibited for defence lawyers. It was also prohibited to argue the defendant's guilt to the jury but the solution to the problem was found. Defence lawyers began to argue issues of law like the sufficiency of the evidence on cross-examining witnesses. The more rights the defence lawyer had the closer the criminal trial approached to the third stage called *'testing the prosecution' trial*. Thus, presence of lawyers ensured adoption of new evidence rules by judges and their enforcement to cope with deficiencies of the criminal procedure.

Traditionally scholarship considered that the evolution of the adversary system was triggered by the changes in the criminal procedure of England in XVIII century. Recent studies conducted by American researchers discovered facts proving that the impact had the reverse nature. Having studied criminal cases of the mid-XVIII century colonial New Jersey and early XIX century New York City as well as cases of Boston, Connecticut, Delaware, Pennsylvania, North Carolina, and from a federal court of that time, Jonakait (2009) concluded that the adversary system in the USA was widely in operation before the beginning of the XIX century. At that time both attorneys of prosecution and defence were not only present at trials, they had the right to challenge evidence. These findings are also supported by the research of Thomas (2005) demonstrating that in mid-XVIII century England prosecution was represented by a counsel in less than 3% of cases at London's Old Bailey (the Central Criminal Court of England and Wales of that time) while in New Jersey at the same time in 73% of cases prosecution counsels – Attorney Generals (an early form of institutionalised public prosecutor) – were present. In only about 5% of the cases at Old Bailey defence lawyers represented the defendant compared to New Jersey's

representation in 54% of cases. What is more interesting, the acquittal rate in cases represented by counsel was 77% while only 18% in cases when defendants were unrepresented.

The research of McConville & Mirsky (1995) conducted on the cases of the beginning of the XIX century New York City shows that by 1834 at Old Bailey prosecution counsel appeared in only one case in twenty compared to regularly present lawyers of prosecution and defence in General Sessions in New York City.

Larson (2023) also states that the pivotal year was 1701 when Pennsylvania formally recognized a right to defence counsel in felony cases, which was not allowed in England until the 1730s. The possible reason was the response of the state to the Parliament's elimination of jury trials for piracy cases a year earlier. Over time other colonies followed this example either through statutory recognition or through judicial recognition but before it, but they had previously introduced public prosecutors. The author suggests that the English Inns of Court may have helped transmit transatlantic legal practice from America which was quite successfully adopted there.

The nature of the influence requires further study. Still, the obvious fact is that the formation of the adversary system influenced the development of US evidence law, encouraging a framework where parties are responsible for presenting evidence and advocating their positions before an impartial adjudicator. It contributed to the adoption and refinement of the rules governing the admissibility, presentation, and evaluation of evidence in American legal proceedings.

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## RELEVANCE OF OPTIMIZING LEARNING PROCESSES IN HIGHER EDUCATION INSTITUTIONS IN POST-WAR PERIOD

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Nowadays it's extremely important to talk about trends in the development of higher education in Ukraine, taking into account the political, economic and social perspective of post-war development and reconstruction.

The full-scale invasion of Ukraine by russia, which began on February 24, 2022, has led to serious consequences for higher education in Ukraine. One of main trends in the development of higher education is the modernization and improvement of distance learning. Distance learning might not be the best choice for every student seeking to pursue a university program. It is not so affective as offline studying. As a result, Ukraine needs to improve the conditions for distance learning by using newer software and programs  wich will help to optimize education. The education process was suspended; the facilities of Ukrainian education institutions have been constantly damaged by shelling; students and teachers have found themselves in different surroundings, often outside Ukraine or in the Ukrainian regions which were as far from the active hostilities zone as possible. Therefore, even after ending of the war, not all universities will be able to immediately begin offline education, so the teachers need to improve their qualifications, take courses aimed at distance learning.

Institutions of higher education of all levels, should focus their efforts on solving complex modern problems and making steps aimed to restore the Ukrainian higher education system and set it on a qualitatively new level in the post-war period.

The evolution of the higher education system in the post-war period shold be based on the following postulates:

1) compliance of education with the needs of socio-economic development of the society;

2) ensuring the intellectual development of the individual, mastering effective ways of independent cognitive activity

3) developing high moral and spiritual qualities in younger generations on the basis of universal and national values; ;

4) the development of high environmental culture and responsibility for environmental protection.

One of the most important trends in modern education in Ukraine is Integration with the European educational space, reflecting the country's efforts to align its education system with European standards and principles. The main directions of integration include:

*Implementation of the Bologna Process*: Ukraine has been actively participating in the Bologna Process, which aims to create a European Higher Education Area (EHEA) characterized by compatibility and comparability of higher education systems across Europe. Ukrainian universities have adopted the three-cycle degree system (Bachelor's, Master's, and Doctorate) and the European Credit Transfer and Accumulation System (ECTS) to enhance mobility and recognition of qualifications.

*Quality Assurance and Accreditation*: Ukraine has been working to improve the quality assurance mechanisms in its higher education system to meet European standards. This includes establishing national quality assurance agencies, conducting external evaluations of institutions and programs, and promoting accreditation processes to ensure that Ukrainian degrees are recognized internationally.

*Mobility and Exchange Programs*: Integration with the European educational space has facilitated student and staff mobility through programs such as Erasmus+. Ukrainian students and academics have the opportunity to study, teach, or undertake research exchanges at European universities, fostering cross-cultural understanding and collaboration

*Curricular Reform and Modernization*: Ukrainian universities are updating their curricula and teaching methods to align with European standards and best

practices. This includes introducing more student-centered learning approaches, promoting interdisciplinary studies, and integrating digital technologies into teaching and learning processes.

*Research Collaboration and Networks*: Integration with the European educational space has opened up opportunities for research collaboration and participation in European research networks and projects. Ukrainian researchers have access to funding and resources through programs such as Horizon Europe, enabling them to engage in collaborative research initiatives with European partners.

*Language Proficiency and Internationalization:* There is an increasing emphasis on foreign language proficiency, particularly English, to facilitate communication and collaboration with European partners. Ukrainian universities are offering more courses and programs in English to attract international students and enhance their competitiveness in the global higher education market.

*Alignment with European Legal Frameworks:* Ukraine is working to harmonize its legal framework for education with European standards and regulations. This includes reforms in areas such as academic freedom, student rights, intellectual property rights, and data protection to ensure compliance with European norms and principles.

Overall, integration with the European educational space is seen as a means to modernize and internationalize Ukraine's education system, enhance its quality and competitiveness, and foster closer ties with European partners especially in post-war period

To sum up, the modern trends in the development of higher education in Ukraine are positive and indicate the country's commitment to providing its citizens with a high-quality and accessible education. The integration of Ukrainian higher education into the global educational space is an important step in this process.

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## INTERNATIONAL LEGAL REGULATION OF THE LEGAL STATUS OF INTERNALLY DISPLACED PERSONS

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The legal regulation of the legal status of internally displaced persons (IDPs) falls within both national and international legal spheres. In the realm of international law, a series of normative legal acts govern the issues concerning the legal protection of rights of forced migrants, displaced persons, refugees, and individuals with similar statuses.

In international legal regulation, the legal basis is established through various normative legal acts that address the rights, duties, and guarantees of internally displaced persons alongside the legal status of other categories of individuals such as refugees, persons in need of additional or temporary protection, and other vulnerable populations. Universal international legal acts include the Universal Declaration of Human Rights of December 10, 1948, the Convention for the Protection of Human

Rights and Fundamental Freedoms of November 4, 1950, the Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of 1967, as well as the Geneva Conventions for the Protection of War Victims and others, which lay down the fundamental principles of legal regulation of the legal status of various categories of persons, including internally displaced persons.

A special international normative legal act regulating the rights and obligations of individuals who are internally displaced within the borders of their own country is the United Nations' Guiding Principles on Internal Displacement. This document is structured in the form of a list of fundamental principles that convey the postulates of international humanitarian law and international law in the field of human rights protection. The principles in the document are presented sequentially in the order of stages, which in most cases need to be undergone by each internally displaced person: protection from forced displacement (points 5–9), protection during displacement (points 10–23), humanitarian aid systems (points 24–27), and protection during return, local integration both in the regions from which the individuals were displaced, and resettlement in other parts of the country (points 28–30)

These principles, although not legally binding documents, hold significant authority and are recommended by the Council of Europe to its members as a guideline for developing national legislation and in legal practice in this field.

The UN Guiding Principles provide a definition of individuals falling under the category of "internally displaced persons." According to the document, internally displaced persons are considered to be individuals or groups of individuals who have been forced to leave their homes or places of habitual residence, including as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, human rights violations, natural or man-made disasters, and who have not crossed an internationally recognized state border.

The provided definition enables the determination of criteria by which, in accordance with the international act, an individual can be classified as internally displaced. Specifically,

1. The involuntary nature of the change in the permanent residence, indicating the absence of voluntariness and full freedom in deciding on the change of location.

2. The impact of adverse external factors on the decision to move - armed conflict, situations of generalized violence, human rights violations, natural or man-made disasters.

3. The desired outcome of the displacement is the avoidance of potential negative consequences from the aforementioned external factors.

4. The displacement does not entail crossing the border of the state in which the individual is located.

These principles serve as the primary international document providing a general definition of the term "internally displaced person," identifying the most vulnerable areas of their lives, and recommending mechanisms for ensuring and protecting the rights and freedoms of persons with internally displaced status.

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# FORENSIC PSYCHIATRIC REPORT AS A LINK OF THE CHAIN OF ACCUSATIONS AND PATHOLOGISATIONS OF POLITICAL DISSIDENTS IN SOVIET UKRAINE

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Reich, in her work on Soviet psychiatry in post-Stalin time, refers to the idea that for Soviet forensic psychiatrists, the ideal clinical report is the one where the individual details are arranged around 'the general narrative of the disease [schizophrenia] itself'.[1] Moreover, as Reich indicates, the psychiatrist Kalashnik presented the exemplary forensic report, which became a template for Soviet psychiatrists. In this report, the first sections usually identify its authors and list the details of the criminal charge as well as any questions asked.[2] The second part describes the subject's personal and medical histories. In the third section, psychiatrists' own observations are detailed. This part is usually divided into three subparts: 'physical status, neurological status, and psychological status, the last of which should constitute the heart of the report'.[3] The fourth section of the report lists such data as 'the results of any psychological or physical tests'.[4] Finally, the fifth part summarises the diagnosis and concludes if the subject can be held responsible or not for the crime.[5]

[1] Reich, 2018, p. 36.
[2] Ibid.
[3] Ibid.
[4] Ibid.
[5] Ibid.

The analysis of the psychiatric reports enclosed in the collected archival files for this study[6] has shown that this form of the report was used quite broadly not only at the Serbskii Institute, where many Ukrainian dissidents were referred to, but also in Ukrainian psychiatric hospitals.[7] However, the narratives in these reports seem to lean more to psychiatrists' own observations and conclusions rather than questions asked at the interview during forensic examination. Furthermore, the narratives in the reports seem to be built up on KGB operatives' narratives in the criminal files.

Thus, the close reading and comparing of KGB operatives' and psychiatric reports open up a lot of parallels between them. This can indicate that the psychiatric commission was very well aware of the details of the criminal case of the subject and 'shape' their narratives accordingly, relying a lot on the material gathered during the processes of investigation and interrogation.

For example, all the analysed psychiatric reports refer to Article 62 part 1 *'anti-Soviet agitation and propaganda'*,[8] which the subject is charged with. The main focus is on production and distribution of anti-Soviet literature. Another parallel is *the subject's desire to change or reform the Soviet system*. It can be identified both in KGB operatives' narratives ('During investigation of the case it was established that […] in 1964 [the Subject] sent a letter to his friend [… calling] for actions against established orders in our country'[9]) and psychiatrist's reports ('he disagrees with communism that is being built in our country [and] wants to fight against [it]'[10]). Another focus in both KGB officials' and psychiatrists' narratives is *the subject's indications of Russification and political injustice in Ukraine* ('In conversation with Witness 1[11], deputy secretary of Partbyuro[12] of the institute, [the Subject] said that Ukraine was experiencing Russification' and 'that there was no real democracy in the

[6] The data for this study has been gathered from five criminal cases. All the five subjects are Ukrainians charged with anti-Soviet agitation and propaganda.
[7] For example, according to Criminal Case № 7536, the Subject's forensic psychiatric examination took place at Lviv Regional Psychiatric Hospital (see v. 12).
[8] Here and further in this abstract emphasis added by Nicholls.
[9] See the order from 4th September 1972 in Criminal Case № 58109, v. 8.
[10] See the psychiatric report from 22th September 1972 in Criminal Case № 58109, v. 8.
[11] Code name.
[12] The leading elective body of the Party.

country'[13]). Other examples of common themes which can be identified in both discourses are: *interests in politics and philosophy* ('Recently, he has been interested in philosophical and religious literature'[14]; *ambitious thinking* ('paranoid disorders, which characterized by polythematics, the ambition of scopes and elements of messianism'[15]); *absence of critical evaluation of the current situation* ('critical evaluation of his state and the current situation is absent'[16]). On the whole, these examples can support the argument that pathologisations and accusations developed during the process of criminal investigations are interlinked, hence they are links of one chain.

Noteworthy, apart from Kalashnik's recommendations on how to write reports, Soviet psychiatrists use 'the structuring framework of the diagnosed disease'.[17] Hence, the narratives in all the researched psychiatric reports seem to be built up in a way that makes it possible for some symptoms of sluggish schizophrenia to come up to the surface. It is done mainly through 'selecting and organizing details of [the] subject's life into a diagnostic narrative of "sluggish […] schizophrenia"',[18] which initially were gathered by the KGB operative and enclosed in the criminal case as well as through referring to Article 62 part 1 that could question the subject's sanity in the first place.

Thus, Tal'tse argues that such 'characteristics of schizophrenia symptoms' as, for example, anxiety and hyperactivity are very important for forensic psychiatry as they can lead to more persistent mental problems such as emotional disorders, paranoid ideas, reduction of critical ability.[19] However, the patient can 'hide' these symptoms and it can take many years, even decades, until these symptoms start to explicitly manifest themselves.[20]

[13] See the psychiatric report from 22nd September 1972 in Criminal Case № 58109, v. 8.
[14] See the psychiatric report in Criminal Case № 58117, v. 6.
[15] See the psychiatric report from 22nd September 1972 in Criminal Case № 58109, v. 8.
[16] See the psychiatric report in Criminal Case № 58117, v. 6.
[17] See Reich, 2018, p. 38.
[18] Ibid., p. 39.
[19] Morozov (ed), 1964, p. 259.
[20] Ibid., p. 260.

In the researched forensic reports, the psychiatrists seem to open up gradually the details of the subject's life in a way that can indicate symptoms of a slow progressing course of the schizophrenia. For example, in one of the reports,[21] it is stated that the subject finished school with awards. He also managed to build good relationship with his classmates. However, later, due to the fact that his family faced big financial issues, he developed "a class hatred" towards the rich, 'who faltered his communist ideals'.[22] '"[He] came to the conclusion" that in the USSR "bourgeois psychology" had not been overcome' and that it was necessary 'to fight the enemy'.[23] Furthermore, the Subject realised that Soviet reality 'had nothing in common' with Marxist Socialism. Moreover, the psychiatrists indicated 'morbid ideas reevaluation of own personality' in his diary, which was attached to the criminal file. While talking about weaknesses of the system, the Subject stated that he had to 'disclose them'. The Subject also claimed that the psychiatrists from the Serbskii Institute 'resolve issues', while consulting the KGB. Furthermore, the psychiatrists emphasised that the subject did not seem to care about his arrest.[24]

On the basis of this narrative, the psychiatric commission concluded that the subject suffered from a slow progressing schizophrenia as paranoid disorders had developed progressively since his young age. Moreover, along with the stabilised ideas of reformation, emotional disorders that, according to Soviet psychiatrists, are typical for schizophrenia, schematism of thinking and uncritical evaluation of his situation could be identified.[25] This can exemplify quite well that any person, who disagreed with the Party or tried to contribute to positive changes in the whole system, could fall under this diagnostic category. 'The rest of the work would be done' by forensic psychiatrists, who would build up diagnostic narratives, while 'transforming [their] subjective judgments into seemingly objective facts,'[26] with the

[21] See the psychiatric report from 22nd September 1972 in Criminal Case № 58109, v. 8.
[22] Ibid.
[23] Ibid.
[24] Ibid.
[25] Ibid.
[26] Reich, 2018, p. 25.

help of psychiatric terms and generally accepted norms related to the diagnosis. This also would give credibility to the necessity of the ‘treatment’ of such ‘ill mind’.

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## DEFINING THE LEGAL NATURE OF VARIOUS FUNDING SOURCES FOR THE RECOVERING AND DEVELOPMENT OF TERRITORIAL COMMUNITIES IN UKRAINE

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Amid full-scale war, regions and territorial communities in Ukraine consistently confront financial resources scarcity. While, effective accumulation, distribution and expenditure of funds is crucial for maintaining the economy`s recovering and development on the ground. There are plenty of ways for allocating required financial resources. The important questions are – how to define the legal

nature of these phenomena and processes, how to protect them within Ukrainian legal framework, and how to make sure finances are aimed in the right direction?

The financial foundation that fulfils the community's needs in socio-economic development is a local budget. According to the Budget Code of Ukraine, local budgets are: the budget of the Autonomous Republic of Crimea, regional, district budgets and budgets of local self-government (Verkhovna Rada of Ukraine, 2010a, art. 5). Among these, the latest is of paramount significance, due to its proximity to the community and its citizens, especially amidst the ongoing decentralization reform initiated in 2014.

Budgets of local self-government defined as budgets of villages, settlements, territorial communities of cities, as well as budgets of districts in cities. Budgets of local self-government can have a set of income sources stipulated by Budget legislation (Verkhovna Rada of Ukraine, 2010a, art. 9):

1. Tax incomes: (a) personal income tax, which is based on deductions from salaries and other income earned by individuals from the community; (b) income tax of enterprises and financial institutions of communal ownership; (c) rent for special use of local natural resources (e.g. water, forest); (d) excise tax, levied on the production, retail, and import of specific goods like alcohol, tobacco, and fuel; (e) property tax, which includes tax on real estate (excluding land), land fee and transport tax; (f) single tax – applicable to some businesses and individual entrepreneurs who choose a simplified tax system; (g) fees for parking spaces for vehicles; (h) tourist fee.

2. Non-tax incomes: (a) income from property and business activities – this includes revenue from renting out municipal property, concession payments, and dividends from communal companies' operations; (b) administrative fees and charges collected for providing administrative services like property and businesses registration or providing licenses/permits for certain business activity etc.; (c) administrative fines and sanctions; (d) state duty; (e) interest for providing loans to citizens, interest for deposits of free municipal funds; (f) other non-tax revenues.

3. Incomes from operations with capital: income received from the sale of capital assets (fixed funds, state stocks and reserves, communal and state land) (Press centre of the "Decentralization" initiative, 2017);

4. Transfers: (a) grants – this includes funding from the state budget to equalize local government income with their expenditures (subventions) or for specific programs (subsidies); (b) other transfers – grants from international organizations, international aid etc.

Consequently, we have evaluated the approach which puts the budget of local self-government as the central resource for community socio-economic development. While this perspective holds merit, it may be reasonable to broader our viewpoint. The financial capabilities of territorial communities extend beyond local budgets, encompassing funds from private individuals and businesses both within and outside the community. These additional sources constitute potential avenues for community recovery and development. A distinguishing feature of this alternative approach is that local self-government bodies do not claim ownership of these resources. Instead, they are urged to adopt a proactive and equitable role, working alongside with businesses and individuals. (Borshch et al., 2017) This collaborative model, known as public-private partnership (PPP), is not novel but offers a promising framework for recovering and development of territorial communities in Ukraine.

Henceforth, an expanded spectrum of opportunities becomes apparent. Here is one example. Self-government body receives a number of appeals from citizens with special medical needs about the transportation challenges they encounter while commuting to hospitals. The investigation reveals that this is a systemic problem. What solution could public-private approach suggest? Rather than allocating large amount of funds and establishing own fleet of vehicles affiliated with the communal hospital, self-government body signs the contract with the local logistic/taxi company, which has a wide range of vehicles suiting the required needs. As a result, self-government body gets a quality service for citizens without large expenditures, while private partner attracts additional funds for conducting business operations, raising salaries for employees and expanding business.

In Ukraine the legislative base of PPPs is the Law № 2404-VI “On Public-Private Partnership” which describes PPPs main forms: (a) concession; (b) property management contract; (c) contract on cooperation; (d) other. (Verkhovna Rada of Ukraine, 2010b, art. 5)

Financing of public-private partnership can be carried out at the expense of: (a) financial resources of a private partner; (b) financial resources borrowed in accordance with the established procedure; (c) state and local budget funds; (d) other sources not prohibited by law. (Verkhovna Rada of Ukraine, 2010b, art. 9)

It is notable that national legislation currently does not fully explore the potential of public-private partnerships (PPPs), primarily focusing on government asset ownership. While, it is important to maintain a realistic approach on the expectations of each stakeholder. The willingness to allocate substantial funds to projects without assured ownership rights is understandably limited. Established businesses typically possess a lot of resources, expertise, personnel, and technologies, which means more benefits to the business should be suggested. At the same time, self-government bodies must diligently evaluate potential risks, taking into account the limitation of land and other resources of the community and the long-term welfare of its residents. Moreover, it is essential to establish clear performance guarantees and associated penalties or incentives within contracts to mitigate the risk of engaging unreliable contractors in the marketplace (Phillips, Pittman, 2008, p. 111).

Proceeding further, to explore alternative approaches that entail the combination of public and private interests, local public bonds emerge as a viable avenue of consideration. The Law № 3480-IV “On Local Self-Government in Ukraine” allows self-government bodies to make a decision for issuing municipal bonds (Verkhovna Rada of Ukraine, 1997, art. 70). It is a good way of attracting additional funds, but its use has been infrequent. Nonetheless, with the rise of digital technologies and electronic money we see significant prospects of this method, as the process of allocating funds from private agents could be simplified. For example, in Kyiv, it has long been possible to vote for the implementation of various city

initiatives using a mobile application. Why not adding here the possibility of raising additional funds for such projects through the issuance of local bonds?

New funds could also be allocated using stock companies. It's another possibility to put private and public (communal) capitals together in the community. The Law № 2465-IX "On Joint Stock Companies" and The Law № 436-IV "Commercial Code of Ukraine" are the legal guides for creating and operating stock companies. Finding the right balance between public and private interests is important – the communal aspect should ensure the company and its projects serves the community's needs, while still providing a return on investment for private shareholders.

While the private-public partnership method may initially appear complex and relatively insignificant, it has considerable potential. The examples provided here merely scratch the surface of its application. In developed nations such as the United States, the average funding share for local economic development is evenly split, with approximately 50 percent originating from the public sector and 50 percent from the private sector (Phillips, Pittman, 2008, p. 112). Hence, the optimal approach for achieving notable progress in the recovery and development of territorial communities in Ukraine entails involving a diverse array of funding sources.

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## THE PROBLEM OF SCIENCE OF CRIMINAL PROCESS UNDER MARTIAL LAW

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The Verkhovna Rada of Ukraine, as a legislative body of the state with the beginning of armed aggression, had to adopt legislative acts in the "turbo mode" that would become a prerequisite for the optimal work of courts and law enforcement agencies in difficult military conditions, provided the necessary procedural tools to ensure the effective administration of justice in Ukraine.

At the same time, with the beginning of military aggression against Ukraine and the introduction of martial law in the country, all spheres of public life, including science, especially law, have undergone significant changes. Such innovations did not bypass the branch of criminal procedural law, which had to quickly adapt to the realities of the time.

The intensity of the emergence of new, development and change of existing social relations during pre-trial investigation, trial and resolution of criminal cases under martial law turned out to be so strong that their normative regulation is currently taking place in most cases in the absence of scientific support for law-making activity, which is necessary at all stages of rule-making in accordance with the Law of Ukraine "On Law-Making Activity".

Thus, since the introduction of martial law in Ukraine, 26 laws have been adopted, which amended the Criminal Procedure Code of Ukraine. Such an array is

caused, first of all, by a significant number of new normative social legal relations not regulated before in criminal proceedings, which needed scientific understanding.

The Law of Ukraine "On The Introduction Of Amendments To The Criminal Procedure Code Of Ukraine On Improving The Procedure For Conducting Criminal Proceedings Under Martial Law" Section IX-1 "Special regime of pre-trial investigation, trial under martial law" was significantly expanded in particular, amendments were made to Article 615 of the Criminal Procedure Code of Ukraine, the provisions of which, unlike already established norms, establish a different procedure for conducting criminal proceedings taking into account objective reality under martial law, which in many cases can lead to a significant restriction of fundamental human rights and freedoms.

It should be noted that such novels to the Criminal Procedure Code of Ukraine, indeed, were urgently needed in view of objective circumstances under martial law, however, due to a significant lack of time, they were not provided with sufficient scientific coverage and elaboration. Meanwhile, any changes that restrict human rights within the framework of criminal proceedings, even due to the needs of the time, must be weighed, comply with the main international documents in the field of protection of human and citizen rights, the Constitution of Ukraine.

In view of the above, it can be concluded that the science of the criminal process in Ukraine under martial law should be predictive in nature, move in the direction of bringing the current legislation in line with international standards of human treatment in accordance with the needs of society at this difficult time for the country.

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## CURRENT ISSUES REGARDING THE FUNCTIONING OF THE UKRAINIAN LANGUAGE AS THE STATE LANGUAGE IN UKRAINE DURING THE PERIOD OF MARTIAL LAW

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During periods of martial law, the dynamics surrounding the functioning of the Ukrainian language as the state language in Ukraine become especially pertinent and sensitive. As the country navigates through the complexities of martial law, the status and usage of Ukrainian language often emerge as focal points of discussion and scrutiny. This is not merely a linguistic issue but also a reflection of the broader sociopolitical landscape, encompassing questions of identity, culture, and national unity. In exploring current issues regarding the functioning of the Ukrainian language during martial law, it is essential to delve into the multifaceted dimensions that shape language policies, societal perceptions, and governmental actions. Amidst the heightened tensions and uncertainties inherent in times of martial law, the role of the Ukrainian language as a unifying force or a source of contention comes under

intensified examination. Furthermore, the enforcement and promotion of the Ukrainian language during martial law periods may encounter challenges and resistance, particularly in regions where linguistic diversity or historical legacies foster alternative linguistic affiliations. Balancing the imperative of preserving linguistic heritage with the necessity of fostering national cohesion presents a delicate balancing act for policymakers and societal stakeholders alike. Against this backdrop, analyzing the intricacies of how martial law influences the functioning of the Ukrainian language offers insights into broader issues of governance, democracy, and the exercise of state authority. By examining the evolving dynamics surrounding language policies and practices during periods of martial law, we gain a deeper understanding of the intricate interplay between language, power, and national identity in Ukraine's sociopolitical landscape.

The current issues regarding the functioning of the Ukrainian language as the state language in Ukraine during the period of martial law are significant and multifaceted. The declaration of martial law often brings about unique challenges and considerations regarding language policy and its implementation. During times of military conflict or heightened security concerns, there might be increased emphasis on the role of language as a tool for fostering national unity and preserving the integrity of the state. Ukrainian language policies may be reinforced to strengthen the sense of linguistic identity and cohesion among citizens. In times of crisis, there could be concerns about the influence of foreign languages or external propaganda that may undermine national interests or security. Measures might be taken to regulate media, communication channels, and public discourse to safeguard the Ukrainian language and prevent disinformation campaigns. While emphasizing the importance of the Ukrainian language, it's also crucial to ensure that the language rights of national minorities are respected. This includes providing access to education, public services, and legal proceedings in minority languages where necessary, in accordance with international standards and domestic legislation. Implementing language policies effectively during a period of martial law can be challenging due to the disruption of normal administrative procedures, limited

resources, and competing priorities related to security and defense. Maintaining a balance between security imperatives and linguistic rights requires careful planning and coordination among relevant stakeholders.

The Law of Ukraine «On Ensuring the Functioning of the Ukrainian Language as the State Language» defines the status of the Ukrainian language as the sole state language and mandates its use throughout the territory of Ukraine in the exercise of powers by state authorities and local self-government bodies, as well as in other public spheres of social life. According to the decision of the Constitutional Court of Ukraine dated July 14, 2021, «the threat to the Ukrainian language is tantamount to a threat to the national security of Ukraine» (Constitutional Court of Ukraine. Decision № 1-r/2021, 2021).

Strengthening Ukrainian language education becomes particularly important during times of crisis to foster linguistic proficiency and cultural awareness among the population. Investments in educational infrastructure, teacher training, and curriculum development can contribute to the long-term vitality of the Ukrainian language. The media landscape plays a crucial role in shaping public perceptions and attitudes towards language issues during periods of martial law. Government authorities, civil society organizations, and media outlets need to collaborate to counteract misinformation, promote linguistic diversity, and uphold the principles of freedom of expression and access to information.

Since July 16, 2022, subparagraph 1 of paragraph 7 of the section «Final and Transitional Provisions» of the Law «On Ensuring the Functioning of the Ukrainian Language as the State Language» has come into force, amending the Code of Ukraine on Administrative Offenses. The use of non-state language may result in administrative penalties, including warnings and fines (Yevchenko, 2022, p.55).

So, the functioning of the Ukrainian language as the state language during periods of martial law presents both challenges and opportunities for ensuring linguistic diversity, national unity, and democratic values. By addressing language issues in a comprehensive and inclusive manner, Ukraine can strengthen its resilience

against external threats and uphold the principles of linguistic rights and cultural pluralism.

Therefore, it should be noted that currently in Ukraine, a situation has emerged where the presence of a number of factors, including language legislation, societal demands related to national uplift due to the confrontation with the Russian Federation, increased patriotism, reluctance to use Russian-language content, contribute to ensuring the full functioning of the Ukrainian language as the state language. Under the condition of proper implementation of the existing language legislation, the Ukrainian language as the state language can fulfill its primary function – that of unification.

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## EUROPEAN STANDARDS OF TAX DISPUTE RESOLUTION AND THEIR IMPLEMENTATION INTO UKRAINIAN LEGISLATION

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Ukraine is actively pursuing European integration today, gradually acceding to new agreements and ratifying regulatory acts of the European Union. One of the key

aspects of such harmonization is its influence on the process of resolving tax disputes.

Tax disputes are a complex and intricate process that requires a balanced approach and high qualification of its participants. Implementing European standards in the tax sphere of Ukraine can play a significant role in simplifying this process, ensuring greater transparency, stability, and predictability for all parties involved.

In this context, it is important to analyze how the harmonization of tax legislation with European standards affects the procedures for resolving tax disputes in Ukraine.

In Ukraine, the process of resolving tax disputes is regulated by legislation and relevant rules established by competent authorities. Traditionally, questions regarding the methods of resolving tax disputes are outlined in the Tax Code of Ukraine. For instance, Article 7, Clause 17.1.7 of the Tax Code of Ukraine stipulates that taxpayers have the right to challenge decisions, actions (or inaction) of supervisory authorities (officials) in the manner established by this Code. In this regard, Smychok Y.M. noted that the modern legislative framework for challenging decisions of supervisory authorities, enshrined in the provisions of the Tax Code, allows distinguishing between administrative and judicial procedures for such challenges (Smychok, 2012). Typically, the first stage of resolving tax disputes involves an administrative appeal to the tax service or another relevant authority requesting clarification or review of the decision. If the dispute is not resolved at this stage, it may proceed to a judicial process, where it is resolved according to procedures provided by the administrative procedural legislation.

The European Union, in turn, is not a state, does not levy taxes, and consequently does not have its own tax administration. Taxes and customs duties are collected by the EU member states and their respective tax authorities, which are obligated to comply with internal legislation on tax administration and procedural legislation of the member states.

However, tax authorities and tax courts of the member states are also required to comply with the EU legislation, which may affect their internal legislation and

application of such legislation. Where possible, the EU laws prevail over the internal legislation of the member states.

The main difference in the process of resolving tax disputes between Ukraine and the European Union (EU) lies in the fact that the EU countries adhere to common standards and procedures established by the European directives and recommendations."

The main category of disputes regulated by the European Union legislation is the resolution of double taxation disputes. In July 2019, the EU Directive on mechanisms for resolving tax disputes (Council Directive (EU) 2017/1852, 2017) entered into force. Until then, there was only a multilateral convention that allowed tax authorities to submit tax disputes to arbitration, but without any means for taxpayers to initiate this process themselves. Currently, tax authorities are not obligated to reach final agreement. Given this situation, this Directive represents an important step in international taxation (LIGAZAKON, 2019). Overall, according to Article 137 of the Treaty establishing the European Community, the Council issues directives to establish minimum requirements, gradually to be implemented in areas specified in subparagraphs (a) to (i) of the first paragraph, taking into account the conditions and technical standards applicable in each Member State. Thus, upon becoming a member state, Ukraine will undertake the obligation to implement the provisions of directives into national legislation (The Treaty establishing the European Community, 1992).

In accordance with this, Ukraine is currently not obliged to implement the provisions of the Directive on the resolution of tax disputes and will continue to regulate them solely according to the provisions of bilateral agreements and conventions for the avoidance of double taxation. However, as already noted, such agreements do not fully regulate the issues of the dispute resolution process, as well as the rights of the taxpayer to initiate this process.

One of the goals of the above-mentioned directive worth noting is the necessity to encourage member states to use non-binding forms of alternative dispute resolution, such as mediation or conciliation. Procedural manifestations of such

methods of resolving tax disputes may include arbitration or mediation procedures. At the same time, the analysis of the provisions of the Tax Code of Ukraine reveals that these terms are not yet enshrined in it, although the Ministry of Finance of Ukraine is taking certain measures regarding alternative resolution of tax disputes. However, it is worth noting that in Ukraine, as of November 16, 2021, the Law of Ukraine "On Mediation" is in force, which, among other things, applies to disputes in administrative matters, but there is currently no widespread practice of their resolution applying the given form due to the short period of time since the law came into force. This is because the procedure is aimed at resolving tax disputes rather than actually collecting taxes. It is precisely because of the urgent need for such an approach that the aforementioned Directive was approved.

For example, in some EU countries, alternative dispute resolution for tax disputes is mandatory as a pre-trial stage at the national level. Dutch tax authorities offer mediation as a method of alternative dispute resolution. Mediators are employees of the Dutch tax authorities, but in practice, they are fully independent. Since April 2007, each court in the Netherlands has been able to offer parties the opportunity to resolve tax disputes through mediation. Germany, in turn, implemented EU Directive 2008/52/EC into national legislation as early as July 2012 and adopted the so-called "Mediation and Other Methods of Alternative Dispute Resolution Promotion Act" (Gesetz zur Förderung der Mediation und anderer Verfahren der außergerichtlichen Konfliktbeilegung, BGBl. 2012 I). The law covers three types of mediation and related procedures: standard extrajudicial mediation, extrajudicial mediation at the request of the court, and mediation in court reconciliation of the parties (Lawyer and Law, 2014).

Thus, for the complete harmonization of Ukrainian tax legislation in the field of tax dispute resolution with the EU general legislation and further implementation of the provisions of directives in this area, in addition to the already adopted Law of Ukraine "On Mediation," it is advisable to make additional changes to the Tax Code of Ukraine. The state needs to change the vector of regulating tax dispute resolution procedures towards final tax payment instead of procedural litigation for both the

state and the taxpayer. These provisions may be more relevant to the resolution of cross-border tax disputes, but the provisions of the EU Directive 2017/1852 on tax dispute resolution mechanisms can simplify and standardize the resolution of national tax disputes and bring procedural regulation of these issues in line with the EU standards.

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## THE MAIN ELEMENTS OF THE LEGAL MECHANISM OF TAX PAYMENT FOR THE USE OF SUBSOIL FOR THE EXTRACTION OF MINERALS

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Given the ever-increasing demand for energy and other resources, subsoil is one of the key objects of economic activity that provide raw materials for various industries and household use.

K.Y. Sherstyukova, in her work on the organizational and legal mechanism for the distribution and redistribution of natural resource rent, points out the need to understand this category as a set of tools, methods and means of management aimed at determining the processes and interrelationships of participants in the financial and economic system to implement the concept of the national economy in the context of the use of natural resources (Sherstyukova, 2016) This concept is aimed at ensuring the socio-economic development of individual business entities, their associations in various sectors of the economy, as well as individual administrative territories or regions of the state.

Subsoil rent payers are business entities, including Ukrainian citizens, foreigners and stateless persons who are registered entrepreneurs. They have the right to use a subsoil object (site) based on special permits to carry out economic activities for the extraction of minerals within the limits specified in the special permits. Landowners and land users, except business entities that are farmers and extract groundwater by special water use permits, are also payers of rent for the use of subsoil for the extraction of minerals (Tax Code of Ukraine).

The object of taxation of rent for the use of subsoil for the extraction of minerals is the volume of commercial products of a mining company - extracted minerals (mineral raw materials), which is the result of economic activity on the extraction of minerals in the tax (reporting) period, consistent with the standard established by the sectoral legislation (Tax Code of Ukraine).

Payers of rent for the use of subsoil for the extraction of minerals shall keep separate accounting and tax records of expenses and income for each type of mineral raw material for each subsoil object for which a special permit has been granted for tax purposes (Tax Code of Ukraine).

In the scientific literature, there are two main approaches to understanding the organizational and legal mechanism of distribution and redistribution of rent for the use of natural resources. The first approach is based on the concept of public property and social interest and is supported by such scholars as A. Gus, T. Karabin, Y. Lenger, M. Menjul, M. Savchyn, M. Siusko, P. Cherevko and others (Gus et al.,

2018). According to this approach, natural resources are considered as public property, and revenues from their use should be used to meet public needs by creating special funds for rent payments.

The second approach is based on the concept of "civil property" or "property of the people" and is supported by the scientific works of E.M. Libanova, M.A. Khvesik and others (Libanova & Khvesyk, 2014) . According to this approach, the ownership of natural resources by the people is used to meet public needs, and provides for the regulatory consolidation of the principle of private appropriation of rent, including in-kind. This approach also envisages the creation of special funds for the accumulation of rent payments with further targeted use of these financial resources.

Today, there is no universal mechanism for fair and efficient distribution and redistribution of rents that can be applied in any country. This is due to the diversity in the formation of the regulatory framework, the functioning of different budget and tax systems, regimes of natural resource use, and the conditions of business entities. In addition, it is related to the specific goals and objectives of both the system of redistribution of natural resource rent and the country's socio-economic development.

Since the state is the main entity representing the interests of the entire society, one of the main economic functions of the modern state is to address the issues of effective extraction, distribution and redistribution of rent in favor of the people and their public interest.

In conclusion, it is noteworthy that efforts aimed at overcoming the problem of developing a universal mechanism for the distribution and redistribution of rent for the use of natural resources, should be directed to the following areas: development and implementation of modern resource management technologies; improvement of legal regulation, in particular, creation of transparent and effective mechanisms for controlling the use of resources; ensuring broad public participation in decision-making on rent distribution; creation of specialized funds for the accumulation of rent payments

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## WHAT IS ARTIFICIAL INTELLIGENCE?
## THE LEGAL REGULATION OF ARTIFICIAL INTELLIGENCE.

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Our level of intelligence sets us apart from other living beings and is essential to the human experience. Some experts define intelligence as the ability to adapt, solve problems, plan, improvise in new situations, and learn new things (Diaz, 2024).

With intelligence sometimes seen as the foundation for being human, it's perhaps no surprise that we'd try and recreate it artificially in scientific endeavors.

AI is a concept that has been around formally since the 1950s when it was defined as a machine's ability to perform a task that would've previously required human intelligence. This is quite a broad definition that has been modified over decades of research and technological advancements.

Artificial Intelligence (AI) is a term which can encompass a wide variety of technologies, many of which are increasingly used in workplace management.

Artificial intelligence (AI) is technology that enables computers and digital devices to learn, read, write, talk, see, create, play, analyze, make recommendations, and do other things humans do.

In 1956, John McCarthy coins the term "artificial intelligence" at the first-ever AI conference at Dartmouth College. (McCarthy would go on to invent the Lisp language.) Later that year, Allen Newell, J.C. Shaw, and Herbert Simon create the Logic Theorist, the first-ever running AI software program.

Today's AI systems might demonstrate some traits of human intelligence, including learning, problem-solving, perception, and even a limited spectrum of creativity and social intelligence.

But most people are not very familiar with the concept of artificial intelligence (AI). As an illustration, when 1,500 senior business leaders in the United States were asked about AI, only 17 percent said they were familiar with it. A number of them were not sure what it was or how it would affect their particular companies. They understood there was considerable potential for altering business processes, but were not clear how AI could be deployed within their own organizations.

One of the reasons for the growing role of AI is the tremendous opportunities for economic development that it presents. A project undertaken by PriceWaterhouseCoopers estimated that “artificial intelligence technologies could increase global GDP by $15.7 trillion, a full 14%, by 2030.

Artificial intelligence can be divided into three widely accepted subcategories: narrow AI, general AI, and super AI.

Artificial narrow intelligence (ANI) is crucial to voice assistants like Siri, Alexa, and Google Assistant. This category includes intelligent systems designed or

trained to carry out specific tasks or solve particular problems without being explicitly designed.

ANI might often be called weak AI, as it doesn't possess general intelligence. Still, some examples of the power of narrow AI include voice assistants, image-recognition systems, technologies that respond to simple customer service requests, and tools that flag inappropriate content online.

Artificial general intelligence (AGI), or strong AI, is still a hypothetical concept as it involves a machine understanding and performing vastly different tasks based on accumulated experience. This type of intelligence is more on the level of human intellect, as AGI systems would be able to reason and think like a human.

Artificial superintelligence (ASI) is a system that wouldn't only rock humankind to its core but could also destroy it. If that sounds like something straight out of a science fiction novel, it's because it kind of is. ASI is a system where the intelligence of a machine surpasses all forms of human intelligence in all aspects and outperforms humans in every function.

The use of these technologies, while offering much potential, has also proved controversial and raised some important legal questions.

On the 13th of March, the European Parliament has approved the world's first comprehensive framework for constraining the risks of artificial intelligence (AI).

The AI Act works by classifying products according to risk and adjusting scrutiny accordingly (Shiona McCallum, Liv McMahon & Tom Singleton, 2024).

The law's creators said it would make the tech more "human-centric."

The main idea of the law is to regulate AI based on its capacity to cause harm to society. The higher the risk, the stricter the rules.

AI applications that pose a "clear risk to fundamental rights" will be banned, for example some of those that involve the processing of biometric data.

AI systems considered "high-risk", such as those used in critical infrastructure, education, healthcare, law enforcement, border management or elections, will have to comply with strict requirements.

Low-risk services, such as spam filters, will face the lightest regulation – the

EU expects most services to fall into this category.

The Act also creates provisions to tackle risks posed by the systems underpinning generative AI tools and chatbots such as OpenAI's ChatGPT.

"The AI act is not the end of the journey but the starting point for new governance built around technology," MEP Dragos Tudorache added.

It also places the EU at the forefront of global attempts to address the dangers associated with AI.

"The adoption of the AI Act marks the beginning of a new AI era and its importance cannot be overstated," said Enza Iannopollo, principal analyst at Forrester.

The Act still has to pass several more steps before it formally becomes law.

Lawyer-linguists, whose job is to check and translate laws, will scour its text and the European Council – composed of representatives of EU member states – will also need to endorse it, though that is expected to be a formality.

In the meantime, businesses will be working out how to comply with the legislation.

China already has introduced a patchwork of AI laws. In October 2023, the US President Joe Biden announced an executive order requiring AI developers to share data with the government.

In November 2023, the UK hosted an AI safety summit but is not planning legislation along the lines of the AI Act.

In Ukraine, the new Copyright act has been established the legal regime of objects generated by a computer program: the concept and characteristics of a non-original object, generated by a computer program, subjects of property rights, the scope of such rights, their validity period, the possibility of transfer of these rights, as well as an opportunity to properly protect such rights.

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## SPECIFICS OF THE ENFORCEMENT OF THE COURT DECISION ON A CIVIL RESTRAINING ORDER

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The European Court of Human Rights in its judgment on the case "Piven v. Ukraine" emphasized that the right to a fair trial, guaranteed by Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, also protects the execution of final and binding judicial decisions, which in a country that respects the rule of law, cannot remain unfulfilled.

At the same time, according to the norms of the Constitution of Ukraine, the principle of the rule of law is recognized and operates in Ukraine, whereby judicial decisions are binding and must be enforced, and the state ensures the execution of judicial decisions, while the judiciary exercises control over their enforcement.

Additionally, according to part 4 of Article $350^6$ of the Civil Procedure Code of Ukraine, a court decision on issuing a civil restraining order must be executed immediately, and its appeal does not suspend its execution; according to point 10 of part 1 of Article 430 of the Civil Procedure Code of Ukraine, immediate execution of court decisions on extending a civil restraining order is also provided.

However, the execution of court decisions on issuing and extending a civil restraining order has certain specifics in national legal practice. Thus, after a decision

on issuing a civil restraining order is made, the judge, in accordance with the provisions of the Law of Ukraine “On Prevention and Counteraction to Domestic Violence”, informs the authorized units of the National Police of Ukraine about this fact to put the offender on preventive registration. In this case, the National Police carry out preventive work with the offender and monitor the enforcement of the civil restraining order by the offender throughout its validity period.

At the same time, in national legislation, there is a lack of proper regulation regarding the control over the enforcement of the civil restraining order by the offender, which renders the relevant norms declarative and requires the establishment of provisions in the legislation that would specify the function of control and tasks regarding the conduct of preventive work by the authorized units of the National Police of Ukraine (Medvedska, 2022).

However, at the level of subordinate regulatory legal acts, an attempt has been made to define the control over the enforcement of the civil restraining order and the conduct of preventive work. Nevertheless, this does not eliminate gaps in legal regulation because according to paragraph 2 of Section III of the Ministry of Internal Affairs Order “On Approval of the Procedure for Putting Offenders on Preventive Registration, Conducting Preventive Work, and Removing Offenders from Preventive Registration by the Authorized Unit of the National Police of Ukraine”, control involves weekly communication with the offender without regulating such communication or establishing a corresponding obligation for the offender to participate in these activities, not to mention their effectiveness.

Among the problematic aspects of enforcing court decisions in these cases, I consider the absence of inclusion of the authorities and officials responsible for the enforcement of court decisions and decisions of other bodies towards the entities included in the list of entities in the field of prevention and counteraction to domestic violence. Although the enforcement of court decisions as the final stage of judicial proceedings is entrusted to the bodies of the state executive service, subordinate to the Ministry of Justice, and in cases provided by law to private executives. In practice, this leads to refusal to enforce a court decision on a civil restraining order

with reference to the Law of Ukraine “On Executive Proceedings”. The one does not provide for the powers of these entities regarding the compulsory enforcement of a civil restraining order (Buhaiets, 2020).

At the same time, including relevant entities in the list of persons responsible for enforcing the civil restraining order would allow for more effective control over the enforcement of court decisions, as discussed in one of K.V. Gusarov’s publications (Gusarov, 2023). Furthermore, cooperation with the National Police of Ukraine, as defined by the Order of the Ministry of Internal Affairs and the Ministry of Justice “On Approval of the Procedure for Interaction between the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, and the authorities and officials responsible for the enforcement of court decisions and decisions of other bodies”, would enable more effective responses to violations of the civil restraining order by the offender.

The specifics of enforcing court decisions on civil restraining orders are not limited to decisions of national courts alone. Separate from the complexities of enforcing legal acts in this field, one can point out the difficulties in enforcing court decisions of member states of the Istanbul Convention. However, the implementation of such provisions is complicated due to the impossibility of enforcing the civil restraining order by the authorities and officials responsible for the compulsory enforcement of decisions.

Thus, the enforcement of court decisions on civil restraining orders in Ukraine is insufficiently effective. This not only leads to violations of fundamental principles of law, but also complicates the protection of individuals who have suffered from domestic violence. National legislation, considering the recommendations mentioned, requires appropriate changes and the establishment of a system for responding adequately to violations of civil restraining orders by offenders.

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## THE LEGACY OF PAVLO SKOROPADSKYI: BUILDING THE UKRAINIAN STATE AMIDST TURMOIL

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Pavlo Skoropadskyi emerged as a creative political figure who navigated the complexities of his time to spearhead the construction of the Ukrainian state. In an era, fraught with challenges, clarity and decisive action were imperative in establishing diverse and numerous governmental institutions. It is remarkably, these institutions were established within an exceptionally short period and essential from scratch. It was an unparalleled laboratory for Ukrainian state-building, drawing upon the specific professional experiences of its participants and reviving the achievements of statehood from Ukraine's historical past.

Pavlo Skoropadskyi's legacy extends far beyond his brief period of governance. His visionary leadership and commitment to the Ukrainian cause serve as a testament to the resilience and determination of the Ukrainian people in the face of adversity. Despite the challenges of his time, Skoropadskyi's efforts laid the groundwork for the eventual emergence of an independent Ukrainian state.

Pavlo Skoropadskyi's tenure as hetman was marked by multifaceted legislative endeavours, which played a pivotal role in shaping the governance structure of the Ukrainian State. It is remarkably that prior to June 1918, Ukraine lacked a formal legislative procedure, which was subsequently developed and utilized during the Ukrainian State era. Under Skoropadskyi's leadership, laws were ratified by the hetman.

In total, over 500 legislative acts were adopted during the Ukrainian State period, averaging about 70 per month. Among these innovations there was the adoption of the first state budget, outlined as a comprehensive estimate of expenses. Skoropadskyi approved it in June 1918 under the "Rules on the Procedure for Consideration of the State Budget and Financial Estimates for 1918."(Davva, 2020).

The internal policy of the hetman rested on three pillars:

1. Restoration of private land ownership and its reintegration into commercial circulation.

2. Establishment of a capable army.

3. Affirmation of the Ukrainian cultural and educational space.

The Land Reform initiative was arguable one of the central transformations based on the principle of "alienation of lands at their actual value from large landowners for redistribution to small-scale farmers."(Taranenko, 2017). However, the theoretically sound provision regarding the inviolability of private property rights in the specific historical context of Ukraine at the time only exacerbated social tension. Landlords obtained legal grounds to reclaim landownership, sparking peasant resistance and widespread discontent against the hetman's government and his German-Austrian allies. By summer, a wave of uprisings swept through almost all regions.

Despite facing significant challenges and resistance, Pavlo Skoropadskyi's efforts in legislative development and governance left an indelible mark on Ukrainian history. His initiatives laid the groundwork for the Ukrainian statehood that would continue to evolve in the years to come.

The experience of state-building under Pavlo Skoropadskyi is significant for contemporary relevance for several reasons. Firstly, this period of Ukrainian history illustrates crucial aspects of the establishment of Ukrainian statehood amidst complex political, social, and economic challenges. Secondly, the exploration of problems and mistakes in nation-building during difficult and crisis-ridden times provides an opportunity to learn important lessons for contemporary politics and governance. (Rumiantsev, 2021).

Thus, learning from mistakes is an integral part of any developmental process. By analysing the historical experience of Pavlo Skoropadskyi, we can understand which strategies and approaches were successful and which were ineffective in addressing the challenges of state-building. Studying these aspects will help avoid repeating similar mistakes in the future and develop more informed and effective strategies for developing state institutions and society as a whole.

Moreover, analysing the historical context allows us to better understand the contemporary challenges facing our country. The paths of state development chosen in the past may indicate possible ways to overcome current problems and build the future. Such an approach will assist Ukrainian society in navigating the complexities of modern governance and building a brighter future.

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# HISTORICAL AND INTERNATIONAL LEGAL BASIS OF CRIMINAL LIABILITY FOR JUSTIFICATION, RECOGNITION AS LAWFUL, DENIAL OF ARMED AGGRESSION OF THE RUSSIAN FEDERATION AGAINST UKRAINE, GLORIFICATION OF ITS PARTICIPANTS

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Manifestations of hostile propaganda by the Russian Federation as an element of a hybrid war against Ukraine were actually observed long before 2014. However, it was precisely from the moment of the beginning of active hostilities in the Donbass and the annexation of Crimea that the enemy most actively used all known means and forms of propaganda aimed at spreading false and dangerous narratives among the population of Ukraine. Among other things, such forms of propaganda can fully include the recognition as lawful and denial of the armed aggression of the Russian Federation against Ukraine, as well as the glorification of its participants.

However, only the full-scale invasion on February 24, 2022 and the resulting increase in propaganda influence on the population of Ukraine led to the addition of a number of articles to the Criminal Code of Ukraine, including Article 436-2, which is discussed within the framework of this report.

In order to correctly understand the historical and international legal context and the development of the crime being studied, it is advisable to highlight its individual characteristic features. Consequently, the objective side of the crime under study: justification, recognition as lawful, denial of armed aggression, glorification of its participants - contain signs of such social phenomena as collaboration and hostile propaganda (in various forms).

Back during the First World War, propaganda began to be widely used not only as a tool for mobilizing one’s own society, but also as an effective weapon against the enemy. Later, during the Second World War, propaganda took one of the key places in the arsenal of the warring countries, along with real weapons.

It was during this period that the term “collaboration” was first used by General Henri Philippe Pétain, who led the so-called Vichy regime and called on the French to cooperate with Nazi Germany [Darcy, S., 2019, p.90]. During the World War, the term was quickly borrowed into other languages, and, in particular, was actively used by Soviet propaganda with a distinctly negative connotation to describe the cooperation of individual peoples of the USSR with Nazi Germany, including for the purpose of legal justification of repression and persecution [Penter, T., 2008].

By examining the dynamics of the reactions of society and the authorities, primarily to the collaborative activities of the population of Western European countries that were subject to occupation by the Nazis, we can conclude that the above manifestations of socially dangerous phenomena posed a number of tasks for governments and legal scholars to quickly develop effective legal mechanisms for responding to them. A significant increase in scientific research in this area can be traced precisely in the post-war years, when international and national tribunals for war criminals began to be formed, and peoples liberated from occupation demanded retribution from the authorities for what had been done [Marcq, R., 1948].

So, there was a clear task - to solve the complex issues of bringing to justice for collaboration and propaganda activities, as well as the creation of effective mechanisms to counter their commission. However, the achievement of such a goal was accompanied by both political, social and economic barriers (a large number of violators; lynchings and reprisals; lack of human and financial resources, etc.), and purely criminal legal ones, expressed in the forced violation of human rights, violation of basic principles of criminal law and the like [Brants, C., 2015].

It was during this period that, in one form or another, the elements of crimes received their criminal legal form, covering justification, recognition as lawful, denial of armed aggression, glorification of its participants on the side of the aggressor.

In particular, crimes such as collaboration appear in the national criminal laws of European countries (mainly all countries participating in the Second World War) [Morgan, P., 2018]. At various times since World War II, the governments of France, Belgium, Austria, Poland, Italy and other countries have criminalized denial of the

Holocaust and genocide, justification of the crimes of the Nazi regime, denial, humiliation or justification of crimes against humanity or war crimes.

During this period, along with national legal systems, significantly strengthens the role of international organizations (the United Nations, the International Criminal Court, specially created international tribunals) and international agreements (the Genocide Convention (1948), the Geneva Conventions (1949), the Rome Statute of the International Criminal court (1998), the Convention on the Inapplicability of the Statute of Limitations to War Crimes and Crimes Against Humanity (1968). Governments of various countries have included the principles and legal mechanisms of international criminal law in their legislation, including: criminal liability for collaboration, propaganda of war and genocide.

At the same time, even the experience of two World Wars is not an obstacle to individual states committing new acts of aggression and starting wars. This leads to the need to constantly improve the criminal legal framework of both national and international legislation. This, in turn, directs scientific and legal discourse to the study of new social relations, the development of concepts and theories that can be successfully implemented in practice.

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## RELEVANCE OF LEGAL SCIENCE DEVELOPMENT DURING MARTIAL LAW

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Considering the current realities, the role of lawyers and legal scholars can hardly be overestimated. The European integration processes taking place in modern society under martial law require new approaches to understanding law, the formation of a rule of law state and civil society. In the period of martial law, the legal profession does not lose its relevance, since the consequences of the war are directly related to legal facts. This concerns not only compensation for damages caused by the aggressor, but also the further development of the rule of law in Ukraine, improvement of Ukrainian legislation, strengthening of legal guarantees of protection and raising legal awareness and legal culture of the population.

The ongoing war in Ukraine has deeply affected the Ukrainian scientific community. Many scientists have left their professions or left the country. Educational institutions continue to suffer destruction, libraries, equipment, and educational materials are destroyed as a result of massive shelling. According to the Strategic Plan of the Ministry of Education and Science of Ukraine until 2027, as of November 2023, 442 scientific infrastructure facilities have been damaged (Ministry of Education and Science of Ukraine, 2023). At the same time, it is important to understand the place of legal science in the struggle for our state. Ukraine is going through difficult times today, however, the demand of society and international programs to support Ukrainian scientists contribute to scientific development and

prove the value of research scientific activity. The need to solve global problems facing Ukrainian society requires the formation of a highly educated, conscious generation focused on new values.

Responding to security challenges in the context of war has become a fundamental need for communities, and the protection of human interests, rights and freedoms are reaching a new, most important level. Due to the emergence of a real threat to the national security of our state, a number of changes were made to the Criminal Code of Ukraine. It is likely that this is due to the need to protect legally protected social relations, in connection with the open armed aggression of Russia. However, such changes have also given rise to a number of problems that will have to be solved in practice. A wide range of legal scholars, analyzing the above changes, emphasize that the legislator made mistakes that worsen the criminal-legal protection of social relations from socially dangerous acts (Vozniuk, 2022).

The importance of the legal sphere for society determines the implementation of the results of scientific activity in almost all spheres of human life. The demand for innovation is growing not only in the field of armaments and medical technologies, but also in technologies capable of counteracting criminal phenomena. Advanced scientific research is one of the most effective ways to ensure the dynamic development of a modern state. For example, the introduction of information technologies, which include artificial intelligence technologies, is already an integral part of the development of legal activity. According to the Concept for the Development of Artificial Intelligence in Ukraine, approved by the Order of the Cabinet of Ministers of Ukraine dated December 2, 2020 No. 1556-r, to achieve the goals of the Concept in the field of justice, it is necessary to ensure that court decisions in cases of minor complexity (by mutual consent of the parties) are made on the basis of the results of the analysis carried out using artificial intelligence technologies, the state of compliance with legislation and judicial practice (Cabinet of Ministers of Ukraine, 2020).

Therefore, highly qualified specialists are needed to maintain the scientific and research and innovation potential and competitiveness of Ukraine, and the

development of legal science remains the main factor in the development of society, increasing its spiritual and intellectual growth.

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## PROBLEMS AND PROSPECTS OF IMPROVING ADMINISTRATIVE RESPONSIBILITY FOR VIOLATIONS OF RESTRICTIONS UNDER THE CONDITIONS OF THE STATE OF MARTIAL

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The large-scale armed aggression of the Russian Federation against Ukraine, the difficult military-political and economic situation in the region requires an immediate response from public authorities and overcoming all negative consequences. It is thanks to the introduction of the administrative-legal regime of martial law and the corresponding administrative-legal restrictive measures that the state is able to ensure public order, national security and law and order under such extreme circumstances.

Administrative and legal restrictions under martial law are an integral part of the state's response to threats to national security and public order. The essence of such restrictions consists in the temporary restriction or suspension of certain rights and freedoms of citizens, as well as in changing the conditions of functioning of authorities and other subjects of public administration. The main goals of administrative and legal restrictions under martial law include ensuring the security of the national territory, preserving state sovereignty, preventing threats to public order, as well as ensuring the effective operation of state authorities and defense structures.

Given the great importance of establishing administrative and legal restrictions in Ukraine during martial law, there is a need to study this legal category, since it is the main tool for protecting the interests of people, society and the state in the field of national security, from all types of external and internal threats.

Thus, in some cases, during martial law, certain types of administrative and legal restrictions may be established without prior provision of administrative liability. This is due to the need to ensure effective protection of national security, avoidance of threats and dangers, as well as maintenance of public order in the conditions of martial law.

However, even taking into account that the legal regime of martial law has been in effect in Ukraine since February 24, 2022, administrative responsibility for some types of restrictive measures has not been established in the current legislation of Ukraine.

The issue of establishing administrative responsibility for curfew violations during martial law in Ukraine is relevant. So, for example, it is possible to add a separate article to Chapter 14 "Administrative offenses affecting public order and public safety" of the Code of Ukraine on administrative offenses, which will provide for the imposition of administrative liability directly for violation of the curfew. Or it is possible to supplement Chapter 15 "Administrative offenses that encroach on the established management procedure" of the Code of Ukraine on administrative

offenses with an article that provides for liability for violation of legal orders and orders of the military command or military administration [1].

Thus, the Verkhovna Rada of Ukraine has registered a project of the Law of Ukraine "On Amendments to the Code of Ukraine on Administrative Offenses Regarding the Introduction of Administrative Liability for Violation of Established Restrictions in the Conditions of Martial Law" (reg. No. 7356 dated 05/09/2022) [2].

The specified draft law contains provisions on supplementing Chapter 15 of the Code of Ukraine on administrative offenses with Article 210-2 "Violation of established restrictions under martial law", which establishes administrative responsibility for violation of established restrictions under martial law. In particular, the first part provides for the composition of an administrative offense - violation of the curfew, i.e. staying at a certain period of the day, during martial law, on the streets and in other public places or the movement of vehicles, without specially issued passes or certificates, and the second part - violation of a special light masking mode during martial law. The sanctions of this article include the application of a warning or a fine.

The authors of the draft law empowered authorized persons of the National Police of Ukraine to consider cases of such offenses, proposing to amend Article 222 of the Code of Ukraine on administrative offenses. However, subjects who have to draw up protocols on such administrative offenses are left out of consideration, because no changes were proposed to Article 255 of the Code of Ukraine on administrative offenses.

At the same time, it is worth noting other restrictions related to the introduction of martial law in Ukraine, for the violation of which administrative responsibility should be established. In particular, by supplementing the content of Article 156 of the Code of Ukraine on administrative offenses with a qualifying part, the authors of the draft law establish administrative responsibility for violating the established restrictions on the sale of alcoholic beverages during martial law. For violation of the specified restrictions, it is proposed to impose a fine from five hundred to one

thousand non-taxable minimum income of citizens with confiscation of trade items and proceeds received from the sale of trade items.

And the last innovation is a proposal to supplement Article 424 with part five, which provides for liability for violation of established restrictions on the sale (issuance) of medicinal products during martial law.

At the same time, it is proposed to empower policemen and officials of the State Border Guard Service of Ukraine, in case of violation of the curfew by citizens, to apply to them measures to ensure proceedings in cases of administrative offenses namely administrative detention of the person (Article 262 of the Code of Ukraine on administrative offenses).

Therefore, wartime conditions require operational measures to modernize the existing legislation and adapt it to modern realities. Establishing administrative liability for violation of the above-mentioned restrictive measures under martial law has an objective and justified explanation, however, the lack of liability for violation of established norms leads to the loss of effectiveness of these measures as a means of ensuring public order and security.

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## SPECIALIZED COMMERCIAL COURT

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This article provides a comprehensive analysis of the challenges posed by loan defaults in Ukraine's banking system and explores potential solutions, with a focus on the creation of a specialized financial court. Here's a breakdown of the key points and the structure of the argument presented in the article:

**Introduction:**

Loan defaults weaken banking institutions and destabilize the financial system.

The Ukrainian banking system faces significant challenges related to defaulted loans.

Proposes the establishment of a specialized financial court as a potential solution, drawing on international examples like the United Kingdom.

**Brief Literature Review:**

Reviews existing literature on defaulted loans and the role of specialized courts.

Notes the lack of a unified solution for Ukraine's market.

Discusses existing specialized courts in Ukraine and their effectiveness.

**Purpose:**

Aims to analyze the judicial system of the United Kingdom and assess its potential applicability to Ukraine's situation.

**Methodology and Data:**

Employs a comparative method to analyze the judicial systems of Ukraine and the UK.

Chooses the UK as a comparative model due to its significance in the global financial market.

**Results**:

Outlines the structure of Ukraine's judicial system.

Discusses the debate over whether to create a specialized financial court or introduce separate chambers within existing courts.

Examines the UK's Commercial Court and Financial List as potential models for Ukraine.

Argues for the implementation of criteria for claims allocation within existing commercial courts in Ukraine.

On the other hand, we can look at the key aspects of the study of international commercial courts in France:

**Establishment of Specialized International Commercial Courts:**

In February 2018, the Paris Court of Appeal inaugurated a new specialized chamber dedicated to international commercial disputes, known as the International Commercial Chamber of the Court of Appeal of Paris (ICCP-CA). This initiative aimed to streamline the resolution of international commercial disputes and make Paris a preferred destination for such litigation.

**Smooth Implementation:**

The launch of the ICCP-CA was relatively smooth and quick compared to other European countries engaged in similar efforts. This was attributed to the cooperation between representatives of the Paris Bar and the judiciary, resulting in the timely adoption of new rules of procedure for the ICCP-CA and the renewal of rules for the International and European Chamber of the Paris Commercial Court.

**Rationale and Context:**

The decision to establish specialized international commercial courts in France was driven by various factors, including the need to address the consequences of Brexit and to enhance the attractiveness of Paris as a litigation forum for multinational corporations.

**Procedural Adjustments:**

The establishment of the ICCP-CA necessitated procedural adjustments, particularly concerning language usage and evidence gathering. Notably, the use of the English language in proceedings was permitted to accommodate the needs of multinational parties.

**Legal Transplants and Innovations:**

The creation of international commercial courts in France involved a balance between adopting practices from other legal systems, particularly common law traditions, and optimizing existing procedural rules within the French legal framework. This approach aimed to enhance efficiency while respecting national procedural principles.

**Implications and Future Considerations:**

It is essential to monitor the impact of these new courts on the French justice system and consider potential broader evolutions in the future. Additionally, the role and value of the European Union in the context of the proliferation of European business courts should be further explored.

It's clear that both articles address significant issues within their respective countries' legal and financial systems. The first article focuses on the challenges within Ukraine's banking system and the proposed solutions through judicial reform, highlighting the need to learn from international experiences while considering Ukraine's unique context. Meanwhile, the second article discusses France's establishment of specialized international commercial courts as a strategic response to

the evolving demands of global commerce, aiming to bolster Paris's position as a premier destination for international commercial disputes. These summaries underscore the importance of tailored approaches to address complex issues within legal and financial frameworks.

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## ARTIFICIAL INTELLIGENCE IN THE JUDICIAL SYSTEM

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Artificial Intelligence and machine learning are the result of not only technological progress but also the accumulation and use of experience, systematized information or useful data, which has led to the spread of such technologies to almost all aspects of modern life, including law and its application. Due to the advantages of these technologies, such as efficiency, objectivity and transparency, there is a tendency to integrate Artificial Intelligence and machine learning into the judicial system. Many new programs are being designed and developed to make the practice of law easier or more efficient. This is the reason why Artificial Intelligence and machine learning are undoubtedly part of the future of the judicial system. (Arias, 2020)

Integration, which is promoted at all levels, is largely achieved through the implementation of tools to facilitate the administration of justice. The "success" of this integration has led to the creation of an automated court or judge with Artificial Intelligence as a futuristic proposition. Considering the proposal to fully integrate Artificial Intelligence and machine learning into the judicial system, the challenge is to present Artificial Intelligence as an analogy for the human component in the judicial system. This is related to the cognitive processes of the judge's mind and is important for the evolution of society because, without the ability to forget or discard

a body of knowledge, the judge would not be able to abstract from his subjective beliefs and objectively consider cases regarding, for example, protection of the rights of children or women, or regarding racial or ethnic discrimination. So, until Artificial Intelligence and machine learning model this cognitive process in technology, an automated court or judge with Artificial Intelligence is a futuristic idea, of course, unless it is decided to completely rethink the role of the judge and the judicial system in our societies, which involves a complete reformatting of the system or design a new one. (Arias, 2020)

In addition, there are many examples when Artificial Intelligence began to gradually introduce elements of subjectivism, analyzing the statistics of already made decisions in court cases. This is how prejudice is gradually formed, which is based on the criteria of the considered cases. For example, if after a certain period, the majority of guilty verdicts were handed down to male defendants between the ages of 35 and 40, Artificial Intelligence gradually begins to be biased toward this category of defendants. This is unacceptable, as each case must be considered objectively, and impartially, without taking into account statistical information in similar cases.

At present, we already have many examples of the development and implementation of Artificial Intelligence systems for the judicial systems of various countries, from auxiliary software to the practical implementation of pre-trial investigation and court proceedings using autonomous systems.

In China, the Shanghai Supreme People's Court has overseen the development of "trial-oriented judicial reform software." Since 2018, Shanghai has implemented the "Shanghai Intelligent Assistive System for Criminal Cases" ("System 206 3.0"), which provides a complete procedure for criminal cases: filing, investigation, arrest warrant, review, trial, conviction or acquittal, mitigation of punishment and parole, which was a breakthrough in the deep application of Artificial Intelligence technology in the judicial sphere. (Yadong Cui, 2020)

System 206 received the following four main functions:

1) Standards of evidence and recommendations on rules of evidence.

This feature provides caseworkers with standardized, digitized, and checklist-style guidelines for collecting and capturing evidence that they can easily understand and follow, to prevent obvious problems with this procedure, such as the lack of uniform application of evidentiary standards among public law enforcement agencies. security, prosecutor's office and courts, non-standard behavior during the consideration of cases, etc.

2) Review of evidence.

System 206 can review, verify and monitor both individual evidence and the chain of evidence in the entire case, and timely remind investigators and officers handling the cases of problems with the evidence to ensure the actual evidence in the

cases that during the investigation, verification and legal proceedings would be able to withstand the scrutiny of the law.

3) Correction of the interrogation with key elements.

With interrogation models for different types of cases, System 206 can guide police officers during interrogation. In addition, it can help users detect inconsistencies in confessions promptly to ensure the completeness, legality and correctness of interrogation protocols.

4) Intellectual assistance in court proceedings.

Through the use of Artificial Intelligence and other high technologies to assist the trial, System 206 can ensure that "the facts of the case are established in court" and "evidence is evaluated by the court" to realize the reasoning of court decisions, protect the rights of litigants, as well as people's rights to receive the necessary information, participate in court hearings, express one's opinion. (Yadong Cui, 2020)

Science and technology are important means to realize judicial modernization. Combining modern science and technology such as AI with judicial creativity provides a great opportunity for solving judicial problems, promoting judicial reform, and realizing judicial modernization. (Yadong Cui, 2020)

Given the already existing experience of integrated technologies and confirmation of the effectiveness of such systems, the idea of a judge with Artificial Intelligence or an automated court no longer looks like such a futuristic idea. Further development and use of the latest technologies is rather a natural consequence of the development of society and, in particular, the judicial system. But in addition to positive developments from the introduction of Artificial Intelligence systems, numerous concerns arise regarding the ethical component of such processes.

An ethical framework is absolutely necessary in the development and implementation of Artificial Intelligence solutions for lawyers. The European Commission for the Efficiency of Justice (CEPEJ) adopted the European Ethical Charter on the Use of Artificial Intelligence in Justice Systems to monitor the use of Artificial Intelligence in judicial systems. In fact, it was the first European document on this topic. Its principles reflect fundamental values as well as important methodological precautions that must be taken when creating and developing algorithms. For example, close collaboration between researchers and all legal professionals is essential for applications aimed at implementing Artificial Intelligence in judicial systems.

The Charter deals with the processing of court decisions and data by Artificial Intelligence. Some of the tools being developed today in this regard aim to support lawyers in conducting legal research or in predicting the possible outcome of a case brought to court (so-called "predictive justice" tools). Others may be used to support the court in case management (for example, by scanning and assigning applications to

the relevant court departments) or to analyze the court's performance. In addition, these tools can be used outside of the judicial process, such as online dispute resolution. (CEPEJ, 2023)

Head of the High Council of Justice Hryhoriy Usyk at the round table meeting, which was dedicated to the presentation of Conclusion No. 26 (2023) of the Advisory Council of European Judges "Moving forward: the use of assistive technologies in the judiciary", organized by the Council of Europe Project "Supporting the Judiciary of Ukraine in War and Post-War Conditions period" together with the Supreme Court expressed the opinion that it is possible to quickly and effectively find answers to questions regarding the application of material and procedural law, however, Artificial Intelligence can never take into account the peculiarities of moral and ethical components during the consideration of a court case. The implementation of Artificial Intelligence in the work of a judge should be gradual. (HCJ, 2024)

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# ADHERENCE TO THE PRINCIPLE OF TIMELINESS OF LEGAL CONTROL SERVES AS A GUARANTEE FOR MODERN REGULATION OF RELATIONS BETWEEN THE STATE AND SOCIETY IN THE SPHERE OF DISTRIBUTING PORNOGRAPHIC MATERIALS

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Legal control is a key method of ensuring legality and order in the public sphere of society, a fundamental component of state governance and an important function of the state. Without organization and implementation of legal control, the effective functioning of public and state structures is impossible.

The essence of control lies in verifying the compliance of the object of control with fundamental values, the most important characteristics of the state and society [Romanov, 2010]. Non-compliance of the object of control with rules recognized by society is the decisive condition for the necessity of its subordination and is generally the reason for the existence of control as a type of activity, considering that the result of legal control is application of legal and non-legal sanctions.

The evaluative stage of control has a direct connection with its subject, which are "processes and phenomena of social reality (object of control), considered in terms of their possible non-compliance with stated goals, programs, social norms, managerial decisions, as well as various interests of society and its subjects." [Reka, 2010]

The principle of timeliness of legal control becomes important, as it determines the synchronicity of legal control with events and processes occurring in the state and society, and mitigates the emergence of unwanted processes in state governance, state-building, and civil society in Ukraine. Violation of the principle of timeliness of legal control leads to direct damage to the economic interests of the state, as well as property damage and moral suffering to its residents. A vivid example of violating this principle in modern Ukraine is the rudimentary,

anachronistic, "Soviet-style" legislative regulation of criminal punishment for "distribution of pornographic materials."

Pornography has become part of the cultural landscape of modern society, recognized and accepted within the framework of civil society and industry. Its presence in certain works of art opens discussions about morality and freedom of expression in social life, reflecting society's sexual perceptions and desires, mirroring its cultural and social differences. According to the ranking of the "Pornhub" website, residents of Ukraine rank 14th in the top 20 countries in the world that viewed adult videos in 2021. Understanding this industry as part of social reality requires a swift resolution of legal issues related to its regulation, which becomes particularly important due to its economic impact. In 2021, the Ukrainian Parliament adopted bill No. 4184, obliging companies providing internet services and operating in Ukraine to pay the corresponding tax to the state budget of Ukraine. In 2023, the "OnlyFans" service paid this tax in the amount of over 1 million US dollars for providing services in Ukraine. In broad strokes, this service provides a space where individuals can, at their own discretion, post adult content and monetize it.

This obstacle was posed by Article 301 of the Criminal Code of Ukraine (hereinafter - the CC of Ukraine), according to which, the following actions are subject to criminal liability: "importation into Ukraine of works, images, or other objects of a pornographic nature for the purpose of sale or distribution, or their production, storage, transportation, or other movement for the same purpose, or their sale or distribution, as well as coercion to participate in their creation". Such wording of Article 301 of the CC of Ukraine provides grounds for law enforcement agencies of Ukraine to conduct pre-trial investigations regarding "sex workers" of the "OnlyFans" service with their subsequent prosecution.

Therefore, certain units of employees of pre-trial investigation bodies and prosecutors spend state budget funds allocated to them as salaries to prosecute adults who sell their own intimate photos and videos to other adults. Subsequently, the court, being limited by this norm of the Criminal Code of Ukraine, must

prosecute these individuals. In other words, a portion of Ukraine's state budget during wartime is used to prosecute those who do not commit "socially dangerous acts" in the understanding of current social realities but contribute to the state budget.

In light of the above, in accordance with the principle of timeliness of legal control, considering the public debate on this issue, as well as its economic impact, it is advisable to legislatively reconsider Article 301 of the Criminal Code of Ukraine, as well as to implement departmental oversight of pre-trial investigation bodies and the prosecution service to conduct audits of criminal proceedings initiated under this article and assess the feasibility of conducting pre-trial investigations within these criminal proceedings.

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Criminal Code of Ukraine

## THE HISTORICAL DEVELOPMENT OF THE STATUS OF PUBLIC SERVICE IN THE EU

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Since the second half of the 20th century, particularly in 1957, the European Economic Community (EEC) started the process of establishing unified civil community services.

The process of development and transformation of these European communities into a modern European Union took place through simultaneous structural evolution and institutional transformation into a more cohesive bloc of states with the transfer of an increasing number of management functions to the supranational level (the so-called process of European integration, or the deepening of the union of states), on the one hand, and an increase in the number of European members on the other.

Although in the 1960s the political progress of the Communities was unstable, it was a beneficial period for European legal integration. A number of fundamental legal doctrines were first established in landmark Court Decisions in the 1960s and 1970s, most notably in the Van Gend en Loos decision of 1963, which proclaimed the "direct operation" of European law, that is the possibility of its execution in national courts by European members. Other milestone decisions of this period included Costa v ENEL, which established the supremacy of European legislation over the national laws of European member states.

So, during the second half of the 20th century, the legal regulation of the status of public service in the EU was at the stage of its initial active development and establishment.

In the 2000s the legal regulation of the status of public service in the countries of the European Union (EU) was aimed at standardization and modernization following the European principles of management.

By this time in the EU, the fundamental characteristics of the legal status of a public servant were established, and structural elements were defined: the rights of a public servant; the obligations of a public servant; restrictions on certain activities; guarantees, exercise of powers; social and material security; responsibility of a public servant. Altogether, these constituent parts of the status ensure the appropriate legal status of a person in public service relations and create conditions for the fulfillment of tasks and functions of the state.

Hence, during the second half of the 20th century, the legal regulation of the status of public service in the EU was at the stage of its active development and improvement.

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## PROTECTION AND SECURITY OF CRITICAL ENERGY INFRASTRUCTURE DURING A STATE OF MARTIAL

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Ensuring the development and stability of the state's national security is one of the fundamental and priority areas of balanced state policy. The protection and safety

of critical energy infrastructure is an urgent issue today, since confidence in the reliability, continuity and efficiency of the functioning of critical energy infrastructure guarantees the proper coexistence and development of society and the state as a whole.

This topic is quite new and insufficiently disclosed at the theoretical level, therefore the study of the protection and security of critical infrastructure in the field of energy during martial law acts as a scientifically valuable work in the field of general theoretical aspects and debatable content of the issue of energy security and protection in general. This will not only help to fill gaps in scientific research, but will also contribute to the development of practical activities related to the proper functioning of critical energy infrastructure facilities, by eliminating existing conflicts and uncertainties in regulatory and legal acts and the practice of their application.

It is appropriate to consider the definition of the term «critical energy infrastructure». Yes, in accordance with Clause 40-1 Part 1 of Art. 1 of the Law of Ukraine «On the Electric Energy Market»: «critical energy infrastructure - energy infrastructure objects that are necessary for ensuring vital functions for society, safety and well-being of the population, the failure or destruction of which will have a significant impact on national security and defense, the surrounding natural environment and may lead to significant financial losses and human casualties attributed to critical infrastructure in the manner determined by legislation» (Law of Ukraine «On the electricity market», 2017).

It is worth stating that the modern critical energy infrastructure is a complex cyber-physical system that needs proactive protection and rapid recovery in the event of emergency situations in order to mitigate the consequences that may arise due to the existing risks of combined massive attacks by the Russian Federation, in particular, cyber-physical ones.

For a detailed and complete study of the issue, it should be noted that the Law of Ukraine «On Critical Infrastructure» provides for the definition of the terms «protection of critical infrastructure» of the above-mentioned Law: «protection of

critical infrastructure - all types of activities performed before or during the creation, functioning, restoration and reorganization of a critical infrastructure object, aimed at timely detection, prevention and neutralization of threats to the safety of critical infrastructure objects, as well as minimization and elimination of consequences in in case of their implementation» (Law of Ukraine «On critical infrastructure», 2021). In turn, according to Clause 1 Part 1 of Art. 1 of this Law: «critical infrastructure security – the state of protection of critical infrastructure, which ensures the functionality, continuity of work, restoreability, integrity and stability of critical infrastructure» (Law of Ukraine «On critical infrastructure», 2021).

The above shows that protection and security are two interrelated elements that cannot exist without each other, in turn, it is this that plays a leading role in ensuring the proper functioning of critical energy infrastructure facilities.

We can note that from the beginning of the introduction of martial law on the territory of Ukraine until now, our state has been making a lot of efforts to carry out a wide range of risk and threat assessments for critical energy infrastructure facilities. In particular, it is after identifying relevant threats and risks that it is possible to analyze and assess the consequences and vulnerabilities, thanks to which appropriate complex actions aimed at strengthening the protection and security of critical energy infrastructure facilities are carried out. In addition, Ukraine fruitfully cooperates with European countries, the United Kingdom, the United States, and international organizations on the construction of a multi-level reliable system for the protection of critical energy infrastructure.

Particular attention should be paid to the analysis of the Resolution of the National Security and Defense Council of Ukraine «On the organization of protection and ensuring the safety of the functioning of critical infrastructure and energy facilities in Ukraine in the conditions of military operations», which provides for a set of relevant means and mechanisms aimed at improving the protection and safety of energy facilities (Decision of the National Security and Defense Council of Ukraine «On the organization of protection and ensuring the safety of the functioning of critical infrastructure and energy facilities in Ukraine in the conditions of military

operations», 2023). However, in our opinion, given the unpredictability and danger of massive attacks by the Russian Federation on the critical energy infrastructure of Ukraine, this legal act does not contain a complete and necessary list of actions that would ensure the reliable, continuous and effective functioning of such facilities.

In our opinion, in order to improve the situation with the protection and security of critical energy infrastructure during martial law, the following should be taken into account: firstly, innovative approaches to the protection of energy facilities, namely in the matter of potential combined (cyber-physical) attacks from Russian Federation; secondly, improving the norms of national legislation, by eliminating conflicting norms and implementing international norms; thirdly, the introduction and promotion of training and improvement of the level of qualification of persons protecting critical infrastructure objects, which will increase the level of security of these objects and the possibility of adjusting future actions; fourth, creation of a basis of proven means of control to ensure safety and reliability of operation of critical energy infrastructure, etc.

The conducted research allows us to draw the following conclusions that the protection and safety of critical energy infrastructure during martial law is an extremely important component of the life of society, economic development and national security of the state. At the same time, the state must take the necessary measures of a regulatory, organizational, financial, technical and military nature to ensure maximum protection of priority objects of critical energy infrastructure, as well as create conditions for maintaining the appropriate level of security of these objects for reliability, continuity and efficiency of functioning.

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## EXPLORING THE HISTORICAL AND LEGAL GENESIS OF MONEYVAL: A VITAL PLAYER IN THE GLOBAL FIGHT AGAINST MONEY LAUNDERING AND TERRORISM FINANCING

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Since its inception in 1997, MONEYVAL has been a cornerstone in the battle against money laundering and terrorism financing. However, the roots of these efforts stretch far back in history, marked by the establishment of fundamental principles crucial for financial regulation. This essay explores the historical and legal genesis of MONEYVAL's formation, spanning classical, non-classical, and post-classical stages, underscoring its pivotal role in fostering international cooperation and fortifying regulatory frameworks.

Classical Stage: The genesis of principles vital to combating money laundering and terrorism financing can be traced back to the classical stage of scientific development, spanning the XVII to XIX centuries. Legal frameworks governing financial activities, including banking laws safeguarding customer rights, laid the foundation (European Union, 1991). Evolving over time, these laws adapted to address emerging challenges, emphasizing legality as a cornerstone in the fight against these illicit practices. Transparency emerged as a key concept with the rise of capitalism, mandating public disclosure of financial information by companies to ensure investor confidence. This principle extended to financial institutions, requiring transaction records for scrutiny by competent authorities, facilitating the

identification of suspicious activities. Additionally, international cooperation gained momentum, evident through treaties and agreements, paving the way for collaborative efforts in crime prevention. MONEYVAL, in the contemporary context, epitomizes this cooperation, orchestrating global endeavors to combat financial crimes effectively.

Non-Classical Stage: The 19th century witnessed significant shifts in financial landscapes, characterized by increased cross-border transactions, subsequently creating avenues for money laundering. Despite burgeoning concerns about financial crimes in the 1980s, a unified international approach was lacking. Varied countermeasures by different nations and organizations lacked cohesion, necessitating a concerted effort to address the growing threat. This paved the way for the establishment of MONEYVAL, marking a milestone in global efforts against money laundering and terrorism financing.

Post-Classical Stage: Founded in 1997, MONEYVAL operates as a permanent monitoring body within the Council of Europe framework. Tasked with assessing national anti-money laundering and terrorism financing systems, MONEYVAL ensures adherence to FATF standards (Financial Action Task Force, 2021). Its evaluations provide crucial recommendations for system enhancements, with ongoing monitoring to track implementation progress. Collaborating extensively with international bodies and national authorities, MONEYVAL serves as a linchpin in fostering cooperation and driving effective action against financial crimes.

The historical and legal journey leading to the establishment of MONEYVAL underscores the enduring commitment to combating money laundering and terrorism financing. From classical principles to contemporary frameworks, the evolution reflects the collective endeavor to safeguard global financial integrity. As MONEYVAL continues to play a pivotal role in enhancing national systems and fostering international collaboration, its significance in ensuring a secure and stable world cannot be overstated.

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## INTERNATIONAL COOPERATION IN THE FIGHT AGAINST CRYPTOCURRENCY CRIMES

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The emergence of cryptocurrencies has revolutionized the financial landscape, offering unparalleled opportunities for innovation and economic growth. However, this digital revolution has also provided fertile ground for illicit activities. Addressing these challenges demands a coordinated global response, emphasizing international cooperation as a cornerstone in the fight against cryptocurrency crimes.

Cryptocurrencies, with their decentralized nature and pseudo-anonymity features, present unique challenges to law enforcement agencies worldwide. Traditional regulatory frameworks struggle to keep pace with the rapidly evolving landscape of digital finance, leaving gaps that criminals exploit. Money laundering,

ransomware attacks, drug trafficking, and terrorist financing are among the myriad illicit activities facilitated by cryptocurrencies, transcending borders and jurisdictions. Cryptocurrencies are also the payment means of choice for criminal commodities and services, such as drugs or child sexual abuse material purchased online (Europol, 2021). The borderless nature of cryptocurrencies makes it imperative for nations to collaborate and share resources to effectively combat these crimes.

Collaboration among nations is essential for several reasons. Firstly, no single country possesses all the necessary resources, expertise, or jurisdiction to combat cryptocurrency crimes comprehensively. Criminals exploit jurisdictional loopholes and regulatory disparities to evade detection and prosecution, necessitating a coordinated effort across borders. Secondly, cryptocurrencies operate on a global scale, with transactions occurring seamlessly across national boundaries. Therefore, isolated efforts are inherently insufficient in combating transnational criminal networks operating in cyberspace. Lastly, sharing intelligence, best practices, and technological advancements enhance the collective ability to adapt and respond to emerging threats effectively.

Several initiatives illustrate the efficacy of international cooperation in combating cryptocurrency crimes. The Financial Action Task Force (FATF), an intergovernmental organization, sets global standards for combating money laundering and terrorist financing. Its guidance on virtual assets and virtual asset service providers aims to harmonize regulations worldwide, fostering a more cohesive approach to mitigating risks associated with cryptocurrencies. The FATF's risk-based approach, used globally to coordinate governments' efforts to prevent economic crime, provides an effective balance between existing threats and cryptocurrency opportunities. The development of FATF free, decentralized management networks can be seen as an innovative and more effective way of combating criminal activity than traditional centralized forms of coercion in an era of rapid and unpredictable technological change (Kreminskyi et al., 2021). Similarly, law enforcement agencies collaborate through organizations like Interpol and Europol to exchange intelligence, coordinate investigations, and dismantle criminal networks

operating in the digital realm. Moreover, multilateral partnerships between governments, regulatory bodies, and industry stakeholders have led to the development of tools and technologies for tracking illicit cryptocurrency transactions and identifying suspicious actors.

Looking ahead, leveraging emerging technologies such as blockchain analytics, artificial intelligence, and decentralized identifiers holds promise in improving the detection and prevention of cryptocurrency-related crimes. Moreover, public-private partnerships should be strengthened to harness the expertise of both governmental agencies and industry players in devising innovative solutions. Regulators must continue to expand their control and law enforcement must keep adapting to ensure that criminals are not the key beneficiaries of these markets. How decentralized finance engineering will evolve to enable scams, frauds, theft and money laundering to go undetected seems unclear. However, law enforcement is getting more effective at tackling crypto-related crime, as evidenced by repeated seizures of stolen assets and ever more complex methods of tracking criminal activity on blockchains (Collins, 2022).

Thus, cryptocurrency crimes pose complex challenges that transcend national boundaries, necessitating a concerted global response. International cooperation is indispensable in combating these threats effectively. By fostering collaboration among nations, sharing intelligence, and leveraging technological advancements, the international community can mitigate the risks associated with cryptocurrencies and uphold the integrity of the global financial system. Only through unified efforts we can create a safer and more secure environment for legitimate innovation and economic prosperity in the digital age.

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## ENGLISH AS IMPORTANT COMPONENT OF PROFESSIONAL HIGHER EDUCATION

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It is obvious that English has become one of the main languages of communication not only in the world but in Ukraine as well. So it is important to have necessary skills to get and share the information in English. That is why it is so important to pay special attention to the development of necessary skills of schoolchildren and students. It goes without saying that without speaking English it will be almost impossible to become a good specialist in any field which is connected with the development of our country. And it is even vital in our present situation when the country is facing such destroying actions on its territory. We will need help and assistance from foreign countries on our way to peaceful life so we will need a language of communication known all over the world.

From this point of view it is understandable why English must be one of the main and even major subjects not only at school but university as well. Our students as future specialists who will help with rebuilding and restoring the country

must be able to get access to modern technologies and scientific discoveries in different fields to use them in their professional life. That is why it would be great to have some disciplines given in English or at least a comparative analysis of Ukrainian and the world developments using special terms would be welcomed. It would give our students the possibility to understand and use foreign knowledge in their professional life.

We cannot but agree with Ukrainian scientists T. Dudar, T. Sayenko, M. Radomska and A. Yavtsenyuk, who believe that “it is appropriate to use the experience of the Scandinavian countries, as well as the Czech Republic and Switzerland, which offer all master's programs in the country only in English. Considering the mandatory foreign language exam for all applicants entering master's programs, this innovation is logical and opens up wide prospects for applicants. Of course, this will require significant preparatory work by the scientific and pedagogical staff of domestic higher education institutions, but the efforts will soon be justified by positive results” (Dudar, 2022). As it is known Ukrainian applicants having desire to get Master degree in any specialization are obliged to take entrance exam in English. So it is logical that providing of master's programs in English will be of great benefit to the future specialists and the whole country as well.

S. Dembitska and O. Kobylianskyi point out that “the current state of education as a social institution <…> determines the professional success and competitiveness of young people in the labor market. The competency-based approach to education is one of the key areas for improving higher education in Ukraine. This approach contributes to the realization of the concept of humanistic education, provides for the training of qualified specialists who have not only in-depth knowledge of their profession, but also are able to navigate in related fields, are ready for continuous professional development and social and professional mobility” (Dembitska & Kobylianskyi, 2023). As it was stated by Ukrainian researchers, it is very important to be a competitive specialist on the labour market because future development of our country will demand good and qualified specialists who must know English on a high level.

Moreover, our government decided to make English an important language of communication on the territory of Ukraine. And it means that a lot of employees and officials will have to know it and even prove their knowledge. The President sent the draft law to the Parliament in November 2023. The purpose of the draft law is to "increase the level of competitiveness of Ukraine, increase its investment and tourist attractiveness, expand the use of the English language in public spheres of social life", as well as create favorable conditions for its mastery by Ukrainians (Sokolova, 2023).

According to official statistics, Ukraine rose to 35th place out of 111 countries in terms of English proficiency. The data is monitored by the EF English Proficiency Index international rating of English language proficiency (Konovalchuk, 2023). And it means that around 60-65 % of Ukrainian people are supposed to know English on the good level. Unfortunately, it is quite disputable, from our point of view, if these results are really worth relying on. But it does not mean that we should not work for improving of them. Ukrainian specialists need to know the language on a high level because the future of our country depends on the level of professional education of our students. From our point of view, it would be necessary to provide obligatory level tests for every university graduate as well as every official to prove their true level of knowledge and spoken skills.

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## PUBLIC SERVICE INSTRUMENTS OF ADMINISTRATIVE PROTECTION OF THE FUEL AND ENERGY SECTOR

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The implementation of the "service state" idea in Ukraine has achieved significant successes, but the search for optimal ways to provide public services related to ensuring the functioning of the fuel and energy complex and the algorithm of activity of subjects of power is ongoing. The practical implementation of European standards of service instruments of influence depends on the effectiveness of public administration in the chosen sphere, the quality of activity of all subjects of public administration, and the skillful application of forms of public administration provided for by the current legislation of Ukraine.

Instruments of influence on social relations applied by authorized subjects are an element of administrative protection of the fuel and energy sector. The encyclopedic definition of the concept of "instruments" is their interpretation as means and methods for achieving something. [Busel, 2005, p. 507]. The use of the

term "instruments" has become popular in the scientific legal literature. For example, in terms of denoting the methods of implementing the powers of public administration entities (adoption of normative and administrative acts, conclusion of administrative contracts). [Melnyk, Bevzenko, 2014, p. 253; Zhukov, 2020, p. 216; Galunko V., Dikhtyievsky P., Kuzmenko O., Stetsenko S., 2019]. The instruments used by public administration entities also include the adoption and approval of various kinds of plans aimed at establishing, changing or terminating the rights and interests of a private person.[ Pylypenko, 2018, p. 152].

Instruments in the sphere of administrative activity can be defined as an external expression of homogeneous groups of administrative actions of public administration entities in terms of their nature and legal nature, implemented within the strict compliance with the competence defined by law in order to achieve the desired result for public administration [Dzhafarova, Shatrava, 2022, p. 245]. The general features of public administration instruments include the following:

- they are an external expression of the form of administrative activity of public administration;
- they reflect the legal dynamics (administrative activity) of public administration;
- they depend on the content of the powers of public administration entities;
- their choice is determined by the specifics of the set goal in relation to a certain object of public influence, which establishes the best effective option for activity [Lyukh, 2020, p. 241].

Thus, public service instruments of administrative protection of the fuel and energy sector are a set of measures and methods used by authorized entities in a manner and form determined by law to ensure the provision of quality public services within the fuel and energy sector. Public service instruments of administrative protection of the fuel and energy sector include those that have a proper external manifestation and substantive content, namely:

1) adoption of normative and legal acts related to the provision of public services in the fuel and energy sector;

2) adoption of individual acts related to the possibility of providing public services in the fuel and energy sector;

3) conclusion of administrative contracts, the content of which is related to the provision of public services in the fuel and energy sector;

4) adoption of plan-acts related to the provision of public services in the fuel and energy sector;

5) committing legally significant actions related to the provision of public services in the fuel and energy sector.

Let us analyze the examples of the application of the mentioned public service instruments.

The manifestation of normative and legal acts related to the provision of public services in the field of the fuel and energy sector will be served, for example, by:

- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Regulation on Imposing Special Obligations on Subjects of the Natural Gas Market to Ensure Public Interests in the Process of the Natural Gas Market Functioning" (streamlined definition of volumes and conditions for fulfilling special obligations by subjects of the natural gas market) [Oksyuchenko, 2008];
- Resolutions of the National Commission, which carries out state regulation in the spheres of energy and utilities, "On Providing Information on the Activities of Subjects of the Natural Gas Market during the Period of Martial Law" (defines the substantive and procedural principles of providing information by subjects of the natural gas market to the National Commission, which carries out state regulation in the spheres of energy and utilities), "On Peculiarities of Providing Natural Gas Transportation Services in Order to Fulfill Special Obligations under Martial Law", "On Approval of the Licensing Terms for Carrying Out Business Activities for Transmission of Electrical Energy", etc.

It can be concluded that the vast majority of normative and legal acts as public service instruments of administrative protection of the fuel and energy sector are

adopted by the National Commission, which carries out state regulation in the spheres of energy and utilities, in the form of resolutions.

As for individual acts, at the legislative level they are understood as decisions or legally significant actions of an individual nature, which are adopted or performed by an administrative body to resolve a specific case and which are aimed at acquiring, changing, terminating or realizing the rights or obligations of individuals.

In the field of the fuel and energy sector, these include, for example:

- decision on issuing a license for carrying out business activities for transportation of natural gas;
- decision on suspension or renewal of the license for carrying out business activities for transportation of natural gas;
- decision on issuing a license for carrying out business activities for transmission of electric energy[Cabinet of Ministers of Ukraine, 2022];
- decision on setting tariffs for the services of the universal service supplier[Parlliament of Ukraine, 2005], etc.

It is important to note that individual acts are adopted on a case-by-case basis and are aimed at resolving a specific situation. They are binding on the specific persons to whom they are addressed and must be complied with by them.

Regarding administrative contracts as public service instruments, the term "contract" is generally used in financial, obligatory, civil and labor legal relations. The use of this term for the purposes of administrative protection of the fuel and energy sector indicates the partial application of the dispositive method for regulating these public law relations.

According to the provisions of Part 1 of Article 4 of the Code of Administrative Procedure of Ukraine, an administrative contract is a joint legal act of entities with public authority or a legal act with the participation of an entity with public authority and another person, which is based on their agreement of wills, has the form of a contract, agreement, protocol, memorandum, etc., defines the mutual rights and obligations of its participants in the public law sphere and is concluded on the basis of the law.

Administrative contracts adopted for the regulation of the fuel and energy sector are mainly concluded for the settlement of issues related to the provision of public services or instead of an individual act and are approved by the National Commission, which carries out state regulation in the spheres of energy and utilities.

The adoption of plan-acts as public service instruments in the fuel and energy sector is quite common. For example, the National Commission, which carries out state regulation in the spheres of energy and utilities, has approved the following:

- Development Plan of the Gas Distribution System for 2023-2032 of the Gas Distribution Enterprise of the Joint Stock Company "Operator of the Gas Distribution System "CHERNIHIVGAZ";
- On Approval of the Investment Program of the State Enterprise "REGIONAL ELECTRIC NETWORKS" for 2023;
- On Approval of Amendments to the Development Plan of the Gas Distribution System for 2022-2031 of the Gas Distribution Enterprise of the Joint Stock Company "KYIVGAZ", etc.

As for legally significant actions, these include those that directly create a new legal situation, change existing legal relations, or become a necessary condition for the occurrence of the specified legal consequences - regardless of whether they were aimed at these consequences or not. For example, this includes registration, licensing, issuance of official documents, etc. The fuel and energy sector is no exception.

To summarize, public service instruments of administrative protection of the fuel and energy sector are a set of measures and methods used by authorized entities in a manner and form determined by law to ensure the provision of quality public services within the fuel and energy sector. In the indicated sphere of social relations, it is possible to apply such instruments:

- Adoption of normative and legal acts;
- Adoption of individual acts;
- Conclusion of administrative contracts;
- Adoption of plan-acts;
- Committing legally significant actions.

In the overwhelming majority of cases, these measures and methods are implemented by the Cabinet of Ministers of Ukraine and the National Commission, which carries out state regulation in the spheres of energy and utilities in the forms defined by law. It seems advisable to further doctrinally comprehend and distinguish the specifics of the application of individual public service instruments as elements of administrative protection of the fuel and energy sector.

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## PROBLEM ISSUES OF ENSURING THE ACTIVITIES OF THE JUDICIAL AUTHORITY OF UKRAINE UNDER THE CONDITIONS OF THE MARITAL LAW

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By Decree of the President of Ukraine No. 64/2022 dated 24.02.2022, in connection with the military aggression of the Russian Federation against Ukraine, based on the proposal of the National Security and Defense Council of Ukraine, in accordance with clause 20 of the first part of Article 106 of the Constitution of Ukraine, the Law of Ukraine "On Legal martial law regime" introduced martial law throughout the territory of Ukraine, which continues to this day.

The beginning of a full-scale invasion to the territory of Ukraine became a challenge and a great test for the strength of our state, its institutions of power, national and international law, the world community and its citizens. The institution of judicial power in Ukraine, which has undergone certain changes for more than two years, was no exception. We propose to analyze several problematic aspects and changes from the point of view of legislation and practices, which are faced by both courts and society, in the conditions of judicial proceedings by national courts during the period of martial law.

On March 3, 2022, Law No. 2112-IX was adopted, which revised Part 7 of Article 147 of the Law of Ukraine "On the Judiciary and the Status of Judges", which from now on provides that when a court cannot administer justice for objective reasons during wartime or a state of emergency, in connection with a natural disaster,

military actions, measures to combat terrorism or other extraordinary circumstances, the territorial jurisdiction of court cases considered in such a court may be changed by transferring it to the court that is territorially closest to a court that cannot administer justice or another designated court. If the Supreme Council of Justice cannot exercise such authority, it is exercised by order of the Chairman of the Supreme Court. The corresponding decision is also the basis for the transfer of all cases pending before the court whose territorial jurisdiction is changing [2]. According to the head of the High Council of Justice Hryhoriy Usyk, as of 2023 in Ukraine, due to the impossibility of the work of courts in the occupied territories and on the front line, the jurisdiction of 169 courts was changed, 88 local and appellate courts did not administer justice, 98 premises were damaged or completely destroyed courts, and 55 courts restored the territorial jurisdiction of court cases [3].

Thus, the process of changing the territorial jurisdiction of local and appellate courts in the conditions of martial law was legally regulated and established.

From February 24, 2022, the subsystems of the Unified Judicial Information and Telecommunication System (UJITS): Electronic Cabinet, Electronic Court, and video conferencing subsystem have been significantly improved. As it was noted by the Supreme Court in its decision dated 03.05.2022 in case No. 205/5252/19, "an alternative is for the parties to the case to apply to the court with statements of claim, complaints and other procedural documents defined by law, drawn up in paper form and signed directly by the party to the case or his representative, is the submission of procedural documents in electronic form with the mandatory binding of them with the participant's own electronic signature and the submission of such a document through the electronic office" [4]. Thus, the Supreme Court emphasized, and it is impossible not to agree with this, that there are indeed advantages to the functioning of the Electronic Court, and it is an important means of ensuring citizens' access to the judiciary. Since 2022, the functionality of UJITS has undergone certain changes and improvements.

With the help of the Electronic Court, every person can apply to the court for the protection of his rights, regardless of where he is, which is definitely relevant in

the conditions of war in Ukraine and considering the large number of displaced persons and refugees.

Another positive change that occurred in the legal field of Ukraine after the beginning of the full-scale invasion of the Russian Federation on the territory of Ukraine is the development and spread of the institution of mediation as an alternative method of dispute resolution. As D. I. Piddubny notes, the administration of justice in Ukraine under martial law is complicated by a number of systemic problems, some of which have intensified, while others have arisen directly as a result of armed aggression. Mediation, as a non-jurisdictional method of dispute resolution, is free from these problems and allows the parties to choose the most effective and acceptable option for resolving the dispute [5, p. 133].

**Conclusions.**

In accordance with the situation in Ukraine caused by the armed aggression of the Russian Federation, the government has taken significant measures to ensure the functioning of the judicial system and ensure access to justice. Legislation and organizational measures were adopted to adapt the judicial system to new conditions and to solve the problems that arose as a result of the introduction of martial law.

One of the key changes was the modification of Article 147 of the Law "On the Judiciary and the Status of Judges", which referred to the territorial jurisdiction of courts under martial law, which ensured the continuation of proceedings in cases. The development and use of UJITS contributes to the availability and efficiency of justice in conflict situations, and the development of mediation can become an important tool for resolving disputes by quickly and effectively reaching an agreement without lengthy court processes.

Therefore, the development and improvement of the judicial system, ensuring access to justice and effective resolution of disputes are important for solving the problems of the functioning of the judiciary in the conditions of martial law in Ukraine.

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## FORMULAIRE NUMÉRIQUE DE PROCÉDURE CIVILE

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L'introduction des technologies numériques dans la procédure d'examen et de résolution des affaires par les tribunaux devient l'un des principaux domaines de modernisation du système judiciaire, mais pas le seul, car cela signifierait le remplacement des recours habituels par des recours innovants (numériques).

Dans un avenir proche, un changement significatif est attendu: la transformation non seulement de la base organisationnelle, communicative et

instrumentale des activités quotidiennes des tribunaux en matière d'application de la loi, mais aussi de la législation procédurale, jusqu'à la transition vers un nouveau modèle historique de procédures judiciaires basé sur un système actualisé de principes et de règles procédurales.

Une analyse des dernières tendances en matière de numérisation des relations procédurales civiles dans l'administration de la justice montre qu'aujourd'hui, les éléments de la modernisation numérique se manifestent à tous les stades de la procédure civile, de l'ouverture de la procédure à l'exécution d'une décision de justice. En d'autres termes, la numérisation imprègne l'ensemble de la procédure civile.

Zannou (2021) note que malgré l'absence d'un niveau uniforme de numérisation à l'échelle mondiale et le contexte national de développement des processus technologiques pertinents et des innovations législatives d'un pays, les tendances de numérisation suivantes sont devenues une réalité dans le domaine de la justice: présentation d'une déclaration de réclamation et autres documents de procédure sous forme électronique; information électronique des participants au procès sur l'heure du procès et d'autres actions procédurales; constitution d'un dossier électronique et offre aux participants au processus la possibilité de se familiariser à distance avec les éléments du dossier; suivi du dossier (contrôle de l'avancement du dossier via le compte personnel du participant au processus); enregistrement audio-vidéo des audiences du tribunal; utilisation de systèmes de vidéoconférence et de conférence Web pour la tenue d'audiences judiciaires; publication des documents judiciaires sur le site Internet du tribunal; automatisation partielle des procédures judiciaires; utilisation de programmes d'intelligence artificielle à des fins prédictives.

L'importance de la forme numérique de procédure civile peut être révélée par les avantages qu'elle présente par rapport aux formes orale et écrite. Premièrement, contrairement à la forme de procédure orale, qui vise exclusivement à transmettre des informations, et à la forme écrite, qui vise principalement à enregistrer, la forme de procédure numérique est en mesure de couvrir simultanément le processus de transmission et d'enregistrement des informations. Deuxièmement, les propriétés telles que le temps et le territoire n'ont pas d'importance par rapport à la forme

procédurale numérique. Troisièmement, dans la forme procédurale numérique, les informations sont enregistrées rapidement à l'aide d'outils d'aide à l'information, ce qui élimine le facteur subjectif. Quatrièmement, l'accomplissement des actes de procédure dans le cadre du formulaire de procédure numérique permet la transmission instantanée des informations, ce qui évite le dépassement des délais de procédure, puisque le dépôt électronique des documents permet de déposer une demande 24 heures sur 24, 7 jours sur 7. Cinquièmement, le formulaire de procédure numérique répond aux besoins d'aujourd'hui, car il permet l'utilisation de méthodes et de moyens de transmission de l'information techniquement avancés.

Comme dans toutes les dynamiques de transformation, la transition de la justice vers le numérique n'est pas exempte de risque – à tout le moins de crainte – quant au respect des principes fondamentaux qui commandent tant les règles substantielles que procédurales de l'administration de la justice. Certains auteurs n'ont pas manqué de relever les dérives auxquelles pourrait donner lieu cette évolution de la justice advenant l'hypothèse d'une absence de réflexion mal maîtrisée et coordonnée (Gerard & Mougenot, 2019).

Lorsque l'on parle de la numérisation du processus, on ne peut que constater un certain nombre de difficultés rencontrées par les avocats et les juges dans la pratique. Ainsi, les aspects problématiques suivants peuvent être identifiés : difficultés à maintenir l'ordre dans le tribunal ; difficultés à identifier les personnes et à vérifier leurs pouvoirs ; lacunes liées à la composante technique de l'organisation d'une réunion en ligne ; incapacité à prendre pleinement en compte certains principes procéduraux ; complexité de la procédure d'examen de certains moyens de preuve ; cybersécurité.

La numérisation des procédures judiciaires entraîne une complication de la forme de la procédure civile. En particulier, l'émergence de nouveaux formats d'audience, tels que la vidéoconférence et les réunions en ligne, nécessite l'établissement de critères pour choisir la forme procédurale d'une audience dans un cas particulier. Le problème de l'identification des participants à la procédure dans le

cadre de l'utilisation d'un format de participation à distance aux procédures judiciaires est également pertinent.

Le succès de l'e-justice dépend fondamentalement de l'appropriation de la technologie par les acteurs du marché du droit. Il faut concevoir l'e-justice comme un moyen d'améliorer l'efficacité de la justice dans l'intérêt des justiciables en repensant le rôle du juge et en réfléchissant à celui de la technologie et des outils (Deffains, 2019).

En résumé, il convient de noter qu'une numérisation efficace du formulaire de procédure peut être réalisée par une combinaison raisonnable d'intelligence humaine et de technologies de l'information et de la communication en tant que moyens auxiliaires.

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## THE IMPORTANCE OF REGULATION NET NEUTRALITY AND OPEN INTERNET: THE ROLE OF BEREC

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Net neutrality is a concept that refers to how Internet Service Providers (ISPs) handle the flow of data on their networks. It ensures that all internet traffic is handled fairly and without bias towards certain websites or services. This becomes

particularly important when broadband subscribers, known as end users in EU law, access or share content from platforms such as YouTube or Spotify.

According to the Glossary of Summaries of European Union (EU) legislation, which can be found on the official website of the EU, net neutrality is the principle that internet service providers (ISPs) treat all online traffic equally and openly, without discrimination, blocking, throttling or prioritisation. The principle of open Internet access was implemented in the EU through Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 (Open Internet Regulation). This Regulation sets guidelines for ensuring open Internet access and promoting equal and non-discriminatory traffic treatment within the EU. Opting for a regulation, as opposed to a directive, for the EU law on net neutrality guarantees the consistent application of its provisions throughout EU and European Economic Area (EEA) nations.

In 2009, the European Parliament and the Council established the Body of European Regulators for Electronic Communications (BEREC) through Regulation (EC) 1211/2009. The agency's primary responsibilities are to identify regulatory best practices, develop common positions, and consistently produce reports to apply the regulatory framework in electronic communications. BEREC's importance is evident through its increased responsibilities in the new European Electronic Communication Code (EECC). They include the delivery of technical guidelines on several subjects to facilitate the implementation of the Code, reporting on technical matters, keeping registers of providers, and developing databases for instance on numbering and general authorisations. BEREC's responsibilities also align with the four main goals stated in Article 3 (2) of the EECC, such as promoting connectivity and access to, and take-up of, very high capacity networks; promoting competition and efficient investment; contributing to the development of the internal market; promoting the interests of the citizens of the Union. In order to ensure consistent implementation of the Open Internet Regulation, Article 5(3) explicitly mandates BEREC to establish guidelines for the obligations of the NRAs.

In 2022, the Guidelines on the Implementation of the Open Internet Regulation (Guidelines) were updated by BEREC, reflecting the changes since its previous issue in 2020. The Guidelines highlight the significance of transparency, non-discrimination, and proportionality in traffic management practices by ISPs. It aims to protect the rights of end-users to access and distribute information and content, utilise and offer applications and services, and use terminal equipment of their preference. The primary objective of these guidelines is to ensure a uniform implementation throughout all member states, which will help establish a stable regulatory environment necessary for a prosperous European digital economy.

An example of the practical implications of the net neutrality principle and the relevant documents is the following judgement from the Court of Justice of the European Union (CJEU) dated of the 15th September 2020. This judgement examines the compatibility of specific internet access service packages provided by Telenor Magyarország Zrt. with the Open Internet Regulation. The Court analysed Article 3 of the Open Internet Regulation, which details end users' rights to unrestricted Internet access and prohibits any agreements or commercial practices restricting these rights and requires that all Internet traffic be treated equally and without discrimination, with only a few exceptions. It was discovered that Telenor's zero-rated packages may have limited the rights of end users by showing preference for specific applications and services, which goes against the requirement of treating traffic equally and without discrimination. These practices were considered to be discriminatory, as they seemed to prioritise commercial benefits over the quality of technical services. Therefore, the CJEU determined that the Telenor packages violated the EU regulation to ensure equal internet access for all.

In conclusion, the EU's legislative and regulatory framework on net neutrality and open Internet guarantees the fair treatment of all Internet data, promoting a level playing field and encouraging competition in the digital market. BEREC provides guidance and promotes the consistent and equitable application of these regulations across EU/EEA member states, ensuring a fair and uniform digital environment. The guidelines issued by BEREC and the judgements of the Court of Justice of the

European Union's rulings emphasise the importance of maintaining net neutrality principles to safeguard the rights of end-users and foster an internet that is open, accessible, and free from discrimination.

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# INTERNATIONAL COOPERATION IN THE FIGHT AGAINST TERRORISM

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Terrorism and other socially dangerous forms of extremism, have become a universal reality for the entire world community.

The causes of terrorism include:

- the existence of a significant imbalance of needs and interests of various social groups and states;

- spread of radicalism and extremism in political ideology and political struggle;

- restoration and deepening of the practice of international economic and political relations;

- inequality, tendencies of dictatorship and colonialism;

- formation of nationalism and religious extremism as global political factors;

- sharp polarization in the placement of values in the world [1, p. 34].

In Ukraine today, changes are taking place in the geopolitical, socio-economic, ideological and information-technological life of society. Along with the transformation of certain aspects of public life, effective forms of international law enforcement and judicial cooperation are being actively sought to combat dangerous violations of human rights and threats to the security of the state and society arising from crimes on a global scale. In this context, it is important to analyze the international preventive theory and practice aimed at combating crime in order to create a safe environment for the development of the state, society and every individual.

Today, it is difficult to find a state that can consider itself immune from the actions of terrorists. In addition to actual terrorist manifestations, a serious threat to the stability and evolutionary development of certain state and international

community as a whole is the inspiration of large-scale anti-constitutional processes that are formed on the basis of nationalism, separatism, religious, social and political extremism. The study of normative acts, which establish the main directions of international cooperation in the fight against international terrorism, and the effectiveness of their influence on this fight present an important direction for improving measures to prevent and fight terrorism in the future.

Modern international law has accumulated many international conventions of universal and regional nature, which establish the subject of legal regulation of state cooperation in the fight against terrorism.

Acts of universal character include: Convention on Crimes and Certain Other Acts Committed on Board Aircraft of 1963; Convention for the Suppression of Unlawful Seizure of Aircraft of 1970; Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 1971; Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988; 1979 Anti-Hostage Taking Convention; Convention on the Physical Protection of Nuclear Material of 1980; Convention on the Prevention and Punishment of Crimes Against Persons Enjoying International Protection, including Diplomatic Agents of 1973 [1, p. 35].

Regional acts include: the Washington Convention of February 2, 1971 on the Prevention and Punishment of Acts of Terrorism Taking the Form of Internationally Significant Crimes Against the Person and Related Extortion; the European Convention on Combating Terrorism of 1976; The Dublin Agreement on the Application of the European Convention on Combating Terrorism of 1979.

Nowadays, many international organizations pay attention to the solution of global problems of combating terrorism. In their documents, the fight against terrorism often sounds declarative, since specific steps to counter it are not always indicated. However, the recognition of their importance by many states is already a great achievement of multilateral cooperation in countering international terrorism [2, p. 200].

The experience of individual countries in the fight against terrorism should be highlighted. Back in 1948, the Provisional State Council of Israel issued the Decree

"On the Prevention of Terrorism", in which terrorist organizations were classified as "groups of people who use violent actions capable of causing death or bodily harm to a person, or who are included in the threat of using violence". Currently, Israeli law criminalizes acts of verbal or written praise, approval or encouragement of violent acts; storage of materials that promote the activities of a terrorist organization; demonstrations of solidarity with a terrorist organization (raising a flag, displaying an emblem or slogan, singing anthems in a public place, etc.).

In the Italian Criminal Code, such actions were enshrined in the provisions of articles 2701 (creating organizations to carry out an act of terrorism and sabotage of public order) and 280 (attempt to commit terrorism or sabotage).

Close to the Italian anti-terrorist legislation in terms of its ideology is the legislation of Germany, where the Anti-Terrorism Act was adopted on 12/19/86. In Art. 3 of this regulatory act it is established that terrorist actions include actions pursuing the following goals: a) harming the integrity of the country, as well as the external or internal security of the Federal Republic of Germany; b) elimination, termination or undermining of constitutional foundations; c) harming the security of troops of foreign countries stationed on the territory of the Federal Republic of Germany - a member of the North Atlantic Treaty.

It should be noted that throughout the history of the existence of terrorism - its content and form of manifestation have changed significantly, although the essence has remained the same - the use of extreme violence or the threat of violence to achieve certain political, religious or other public goals, in the presence of the main constructive element - the motive of the criminal terrorist act to intimidate the state power, society or its part.

In the end, it is important to note the significance of international experience in the formation of the system of crime prevention measures.

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## CHALLENGES AND PROSPECTS FOR CAPITAL MOBILIZATION IN UKRAINE

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Considering the full-scale aggression by the russian federation, Ukraine has suffered significant losses in human resources, infrastructure destruction, and economic damage. According to the World Bank's assessments, as of December 31, 2023, direct damage amounted to almost US$152 billion, with housing, transport, commerce and industry, agriculture, and energy being the most affected sectors. Damage remained concentrated in the Donetsk, Kharkiv, Luhansk, Zaporizhzhia, Kherson, and Kyiv regions. Disruptions to economic flows and production, along with additional war-related costs such as debris management, collectively contributed to economic losses exceeding US$499 billion (World Bank, 2024).

The sustainable development of large industrial firms depends on external financing sources. The efficiency of national financial systems determines the long-term development dynamics of these firms. The current state of financial support for investment and innovation development in Ukraine is characterized by a deficit of investment resources (Arutiunian, 2017).

Economic growth is unattainable without creating favourable conditions for both domestic and foreign investment. Financial centers and stock markets play a pivotal role in facilitating investment flows into the most promising sectors. Securities markets in countries with developed market relations function as efficient mechanisms for reallocating investment resources (Redziuk, 2014).

Modern capital mobility, reduced transaction costs, deregulation, and liberalization in international relations and trade contribute to improving the investment climate, thereby accelerating economic development and global integration (Redziuk, 2014).

The most common type of enterprise in Ukraine is corporate entities formed as business entities. As of January 1, 2022, Ukraine had 1,437,009 registered legal entities, with limited liability companies being the most prevalent organizational and legal form at 743,682 units. The number of joint-stock companies amounted to 13,638 units (State Statistics Service of Ukraine, 2022).

However, only a small fraction of Ukrainian businesses attract additional capital through financial instruments. For instance, as of March 19, 2024, the PJSC "Perspective Trading System Stock Exchange" (one of the largest stock exchanges in Ukraine) listed 365 financial instruments, while the PJSC "Ukrainian Exchange" traded 340 financial instruments. In 2023, the total trading volume on the PJSC "Perspective Trading System Stock Exchange" exceeded $7 billion, with stock trading amounting to only UAH 19.3 million. Other financial instruments included various types of bonds, with more than UAH 77 million raised through Ukrainian external state loan bonds and over UAH 3 billion invested in foreign state bonds (PFTS Ukraine Stock Exchange, 2023).

Comparatively, in 2023, the Warsaw Stock Exchange's trading volume exceeded $250 billion, significantly surpassing the figures of the stock markets in Ukraine for the same period.

Therefore, it is evident that bonds are the primary financial instrument in Ukraine, with the state being the major player in the stock market. However, the level of foreign investment attraction remains low. Consequently, Ukraine faces a pressing challenge of capital mobilization both during wartime and post-war economic reconstruction. Capital markets could serve as effective instruments in this regard.

A significant step in capital market development was the adoption of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine to Simplify Attraction of Investments and Introduce New Financial Instruments" on June 19,

2020 (No. 738-IX), aimed at implementing the provisions of EU legislation into national Ukrainian law.

The ongoing martial law in Ukraine has created significant challenges for businesses and investors. This paper examines seven key issues hindering the effective attraction of foreign capital to Ukraine:

1. Legislative instability. Frequent changes in legislation, especially in taxation, complicate investors' ability to predict the consequences of their investments.

2. Bureaucratic procedures. While business registration has become more transparent due to the possibility of private notary registration, further company administration remains cumbersome.

3. Value-added tax (VAT) administration. The current VAT system leads to more business closures than financial instability, crises, war, and natural disasters combined. For example, 87% of tax invoices are registered by the tax authorities themselves due to administrative appeal procedures (Main Directorate of the STS in Kyiv region, 2021). Businesses suffer losses or lose the ability to conduct current economic activities during the appeal period.

4. Shadow economy and low tax culture. In 2021, the shadow economy accounted for 31% of Ukraine's GDP, according to the Ministry of Economy. Tax optimization schemes, simplified taxation system exploitation, and cash payments create challenging conditions for foreign businesses, especially in low value-added sectors (Ministry of Economy of Ukraine, 2022).

5. Intellectual property protection. According to the Ukrainian National Office of Intellectual Property and Innovation, 37% of young people knowingly purchased one or more counterfeit products in the past 12 months. This trend negatively affects investment in intellectual property and research and development (R&D). R&D and intellectual property-based companies are currently the most valuable in the world, and the mobility of capital and intellectual property products, combined with modern technologies, can become the foundation for Ukraine's

reconstruction (Ukrainian National Office for Intellectual Property and Innovations, 2023).

6. Deficiencies in property rights protection and the risk of raider seizures.
7. Low debt repayment culture and debtor-friendly legislation.

The article "The Genesis and Development of the Capital Market in Japan" examines the impact of the stock market on Japan's economy. The stock market enabled Japanese companies to access funds necessary for investing in new technologies, expanding production, and entering new markets, thereby stimulating Japan's economic growth. The growth of the stock market's capitalization went hand in hand with the country's economic growth (Yasushi Hamao, 2005).

An active market for corporate control with its corollary of hostile takeovers is today a central feature of the finance-industry relationships in the stock market dominated economies of the US and the UK (Ajit Singh, 1991).

The stock market contributed to the development of corporate governance in Japan. To attract investors' funds, companies had to become more transparent and accountable. Foreign investors became significant participants in the Japanese stock market, fostering Japan's integration into the global economy.

In conclusion, the multifaceted challenges faced by Ukraine, exacerbated by the full-scale aggression from the russian federation, have led to profound repercussions across various sectors. The extensive human casualties, infrastructural devastation, and economic setbacks underscore the urgent need for robust strategies to address these crises.

The reliance of large industrial firms on external financing highlights the critical role of national financial systems in fostering sustainable development. However, Ukraine's current financial landscape reveals a deficiency in investment resources, necessitating concerted efforts to bolster financial support for investment and innovation.

In essence, Ukraine stands at a crucial juncture, where addressing systemic challenges and leveraging financial instruments can pave the way for sustainable economic recovery and growth. Embracing reforms, enhancing regulatory

frameworks, and fostering investor confidence are essential steps towards realizing Ukraine's economic potential and ensuring long-term prosperity.

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## FEATURES OF PROSECUTORS` RESPONSIBILITY FOR VIOLATING NORMS OF PROFESSIONAL ETHICS

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The prosecutorial bodies have always held a distinct position within Ukraine's law enforcement framework. Given their unique standing in Ukraine's judicial system and the specific tasks entrusted to them by the Ukrainian Law "On Prosecution," successful execution of these tasks is achievable only through adherence to professional discipline and compliance with the Code of Professional Ethics and Conduct for Prosecutors. This code delineates the fundamental principles, moral standards, and regulations of prosecutorial ethics that prosecutors are obligated to follow while carrying out their official responsibilities as well as in their activities outside of official duties.

The professional activity of lawyers is closely linked to the legal and moral standards of society. Lawyers make decisions based not only on the law but also on moral principles, including professional honor, integrity, and a sense of civic duty.

A specific list of moral qualities necessary for lawyers is outlined in the respective ethical codes for legal professionals. The Code of Professional Ethics and Conduct for Prosecutors delineates the fundamental principles, moral norms, and rules of prosecutorial ethics that prosecutors must adhere to in the execution of their official duties and in their personal conduct

Prosecutors, as public officials, must possess skills in managing their own emotions, be restrained, and friendly. Neglect of professional duties is unacceptable and entails responsibility to society.

Prosecutors may be held accountable for gross violations of deontological norms prescribed by the Code of Professional Ethics and Conduct for Prosecutors. However, the question of holding prosecutors accountable for minor or non-systematic violations of professional ethics remains unresolved at the legislative level. This applies to situations both within and outside the prosecutor's environment because if professional ethics are violated, disciplinary responsibility must be enforced. A prosecutor is a representative of the prosecutor's profession both during and outside working hours, and their negative actions can harm not only themselves but also the entire system of prosecutor's offices, undermining society's trust in this institution.

In this regard, questions arise: how and where will such violations of ethical norms be recorded? According to current legislation, only the Qualification Disciplinary Commission of Prosecutors of Ukraine has the authority to hold a prosecutor accountable for disciplinary responsibility, but it does not have powers regarding ethical responsibility.

Analyzing the experience of other countries, it can be noted that in some places special commissions are created to address this issue. For example, in Lithuania, an ethics commission operates within the prosecutor's offices, which monitors compliance by prosecutors with the norms of the Code of Ethics and Principles.

Supporting the opinion of Bilytsia I.O., it would be advisable to establish ethics commissions in each individual prosecutor's office. The establishment of such a collegial body would prevent abuse by management and improve public trust in the prosecutor's office. Therefore, information about identified and proven violations of ethical norms by prosecutors should be included in their personal files, and in case of repeated offenses, one can appeal to the Qualification Disciplinary Commission of Prosecutors of Ukraine.

The establishment of such bodies would prevent abuse by management and would improve the level of trust of citizens in the prosecutor's office. A significant drawback in legislation regarding the ethical conduct of prosecutors is the lack of direct ethical responsibility for violations of the Code of Professional Ethics and

Conduct. This could be addressed by including such responsibility in the Code. This would prevent prosecutors from committing disciplinary offenses, and sanctions against prosecutors would prevent new ethical violations. Such changes would contribute to preventing negative psychological phenomena among prosecutors and would increase public trust in this law enforcement agency.

However, it should be noted that the introduction of ethical responsibility for prosecutors requires careful consideration and prior determination of standards and procedures. Such a step could be an important move towards improving the performance of the prosecutor's office and strengthening public trust in it.

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## SOME ISSUES OF INFORMATION SECURITY OF THE STATE

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The state information security provides protection of information and information systems from inappropriate and unauthorized activities. Therefore, it is advisable to note that the provisions of the national laws, in particular the Law of Ukraine "On Information" of 1992[4], divides information depending on its content into the following types: (1) personal information; (2) reference and encyclopedic information; (3) environmental information (information on ecology); (4) product information (work, service); (5) scientific and technical information; (6) tax-related information; (7) legal information; (8) statistical information; (9) sociological information; (10) other types of information.

Based on this understanding of types of information, another legal act is the Law of Ukraine "On Basic Principles of Information Society Development in Ukraine for 2007-2015" of 2007[3] is the only normative act that contains the following definition of information security: "it is a state of protection of vital interests a person, society and the state, in order to prevent damage caused by incomplete, untimely and unreliable information used; negative information impact; negative consequences of the use of information technologies; unauthorized dissemination, use, breach of integrity, confidentiality and accessibility of information "(Law of Ukraine on Basic Principles of Information Society Development in Ukraine for 2007-2015, 2007).

In addition to the concept of "information security", the Doctrine of Information Security of Ukraine of 2017 relates the following to the current threats to the national interests and national security of Ukraine in the information sphere: (1) conducting special information operations aimed at undermining defensive potential, demoralization of the armed forces of Ukraine and other military units, provoking extremist manifestations, fueling panic moods, exacerbating and destabilizing socio-political and socio-economic situation, fueling ethnic and inter-religious conflicts in Ukraine; (2) conducting special information operations in other countries by the aggressor state in order to create a negative image of Ukraine in the world; (3) information expansion of the aggressor state and its controlled entities, in particular by expanding its own information infrastructure on the territory of Ukraine and in

other countries; (4) information domination of the aggressor state on the temporarily occupied territories; (5) insufficient development of the national information infrastructure, which limits Ukraine's ability to counteract information aggression effectively and proactively perform in the information sphere to realize Ukraine's national interests; (6) inefficiency of the state information policy, imperfection of legislation regarding regulation of public relations in the information sphere, uncertainty of strategic narrative, (7) insufficient level of media culture of the society; (8) proliferation of calls for radical action, promotion of isolationist and autonomous concepts of coexistence of regions in Ukraine (Doctrine of Information Security of Ukraine, 2017)[2].

The term "hybrid war" was first coined by Frank G. Hoffman, who used this term to characterize international conflicts that did not fit the traditional notion of waging a war. He also noted that hybrid threats are a combination of traditional and irregular tactics and strategies for warfare; involve non-governmental actors along with the use of simple and sophisticated technologies. The traditional forms of war are mixed with cyberwarfare, organized crime, irregular conflicts, terrorism.

We can also find other definitions of hybrid war in scientific literature: (a) it is an irregular war that allows use of different methods of combat at the same time and involves adaptation of the armed forces to new conditions; (b) it is a military strategy which, in addition to the conventional war, includes cyber war and involves use of nuclear, biological and chemical weapons, improvised explosive devices and information warfare; (c) it is a deliberate process of establishing external control by one entity over another, establishing total control over the area of management where information plays a crucial role.

Speaking about hybrid war, one should agree with Anzhela Parulu that in the context of hybrid wars, all the basic information methods and tools of conventional wars are used. Hybrid war contains both military and civilian components. Certainly, the emergence of hybrid war as a new form of conflict fundamentally alters the established security architecture and casts doubt on the possibilities of existing security guarantees (Parulua, 2018)[5].

Currently, a hybrid war is actually taking place in the territories temporarily occupied since 2014, and therefore the legislator is making attempts to normatively regulate the peculiarities of the state policy on ensuring state sovereignty in these territories. So, for example, the decision of the National Security and Defense Council of Ukraine "On measures to improve the formation and implementation of state policy in the field of information security of Ukraine" from 2014[1] gives grounds for the conclusion that the subjects of information security in Ukraine are: a) Cabinet of Ministers of Ukraine; (b) Security Service of Ukraine; (c) State Special Communications and Information Protection Service of Ukraine; (d) Ministry of Foreign Affairs of Ukraine; e) State Border Service of Ukraine; (f) State Migration Service of Ukraine.

However, other central executive authorities responsible for formation and implementation in other spheres also have powers in the area of information space protection. First of all, it should be noted that the State Border Service of Ukraine and the State Migration Service of Ukraine are taking measures to protect the national security of Ukraine in the information sphere when addressing issues related to residency in the territory of Ukraine of foreigners and stateless persons (journalists, cameramen, other media workers). In its turn the Ministry of Foreign Affairs of Ukraine takes measures to establish international cooperation on counteracting negative information-psychological influences and cybercrime (Decision of the National Security and Defense Council of Ukraine on measures to improve formation and implementation of the state policy in the field of information security of Ukraine, 2014).

The State Agency for Electronic Governance of Ukraine is also tasked with counteracting information threats and ensuring information security in the country. According to the Regulations on the State Agency for Informatization, approved by the Cabinet of Ministers of Ukraine in 2014, the agency:

(a) conducts digital expertise and prepares conclusions for draft regulatory acts on informatization, formation and use of national electronic information resources,

development of information society, e-democracy, provision of administrative services, digital development;

(b) carries out activities, within the powers provided for by the law, related to information system of electronic interaction of state electronic information resources;

(c) informs the public about the state of development of the information society and promotes its benefits (Regulation on the State Agency for Informatization, 2014).

That is, the analysis of the above allows to conclude that Ukraine is making steps towards creating conditions for proper protection of the information space of the state, specialized normative legal acts are adopted, entities responsible for formulating and implementing state policy in the information sphere, etc. are in place, but not all scientists agree that it is sufficient.

In today's globalization, the issue of counteracting cyberattacks as a threat to information security has become extremely acute. Indeed, cyberattacks today are capable of causing significant damage and destabilizing information space of the country. All this led to highlighting the concept of "cybersecurity". At the same time, some scientists believe that cybersecurity is a component of information security, which only relates to counteracting malicious activity in electronic networks, while others give a broader definition to the concept of cyber security, such that it is identical with the concept of information security.

Thus, the issue of information security of the country as a state of protection of vital interests of the individual, society and the country, which prevents damage due to incompleteness, untimely and unreliable information used, negative information impact, negative consequences of the use of information technology, unauthorized dissemination, use, violation of integrity, confidentiality and accessibility of information is relevant both in national and globalization aspects.

In order to increase the level of information security of the state, the authorized entities should not only use the appropriate information policy tools, but also expand the information infrastructure to increase the state's ability to withstand aggressive

attacks, especially in the east of Ukraine, where due to armed conflict information infrastructure is damaged, destroyed or under the authority of the aggressor state, and to involve citizens in maintaining stability of the information space of the country, including media, etc.

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## SOME ASPECTS OF LEGAL STATUS OF UKRAINIAN REFUGEES IN GERMANY

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It has been already more than two years since the full-scale military invasion of Russian troops into Ukraine. Millions of Ukrainians have already started their new lives in many European countries including Germany, which has offered a great support for them. During this time a particular legal status of Ukrainian refugees has been formed, which has its own specific features.

Legal status is the status defined by law (*Legal Status Law and Legal Definition*, n.d.*)*. In spring 2022 European Union, and later its members have supplemented its legislation with special laws, directed at legal status settlement for Ukrainian refugees. It was decided that Ukrainians do not need to apply for classic refugee procedure (asylum), but for a temporary protection. Such a procedure is more effective, does not involve the investigation of applicant's predicament and less bureaucratic. At the same time, people are guaranteed minimum standards such as access to social assistance, a work permit and the participation of children in school lessons.

However, such protection can be given only for three years. The idea behind this legal construction was to give Ukrainians temporary shelter till the war is over. However, the war is still in its active phase, every day more and more cities and villages suffer under the attacks of Russian missiles. It gets clear, that the war will last at least few more years. It means, that European political powers soon are expected to come to some other decision in this question.

Germany has managed to organize a good system of institutional support for Ukrainians both on a state and local level. Numerous non-state social organizations are involved in the process of helping with the documents, places to live and further aspects of living in a new country. In 2022 and 2023 the main focus was put on gradual integrational courses for Ukrainians, which included mandatory language learning. People could stay at home, get financial help from the state, and visit integration centers few times a week.

In 2024 the political strategy towards Ukrainians was changed: integration was replaced with active job-searching activities, study, and long-lasting employment. The state labor organizations are now focused on searching jobs and negotiating. It became harder to refuse the offered job position and still get the social money from the state. Language barrier became an unresolved issue on each individual level.

However, the social help for those, who cannot work indeed, was not changed and will be further provided. It is very important to understand, that this social help is not the same as the financial help for classic refugees. In fact, these social funds are

also used for Germans, who do not work and as a result cannot financially provide for themselves. It means, that Germany has included Ukrainians in its internal expenditure and put Ukrainians on the same level as Germans in this matter.

The duration of such political program, however, remains unclear, as Ukrainians get to enjoy their current legal status only three years – till March 2025. Nobody is certain what will be decided after thus date – will Ukrainian refugees be forced to apply for real refugee shelter, or maybe they will be able to apply for another permit, like study or work. The problem is that another legal permit requires also a huge package of qualities, such as recognized education level, advanced language skills, experience and competitiveness. Another important matter is time: Germany is highly bureaucratic country, which demands plenty of time and efforts in order to provide some service for an applicant. It means, that in order to get another permit one needs time to collect all the necessary documents; time for responsible organizations to evaluate them and to make a decision; time to adjust to the new legal status.

In conclusion, legal status of Ukrainian refugees in Germany has many features, that are not common for refugees from another countries. These features build a special bond between Germany and Ukrainians, who can use many benefits the country provides them with on almost the same level it provides for its own citizens. People from Ukraine do not have to go through the asylum procedure; they immediately have similar rights to recognized refugees. It means, that Ukrainians receive a residence permit immediately after their registration. This also gives them access to the labor market and social money. At the same time, the question of how long such legal status can be further provided remains opened.

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# RIGHTS OF LEGAL ENTITIES IN THE LIQUIDATION OF A BANKING INSTITUTION

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In 2019, with the adoption of the Code on Bankruptcy Procedures, Ukraine began its path to reforming bankruptcy legislation; however, there are still many gaps in Ukrainian legislation, and, for the most part, it does not meet the requirements set by the European Union for the legislation of its member states. This topic is quite relevant considering the desire of Ukrainian society for European integration.

Ukraine already had a negative experience of mass recognition of banks as insolvent, and the current system of satisfying creditors' claims could not provide adequate protection to bankrupt creditors. Most of these creditors, including the bankrupt's employees, did not receive any compensation. Such a situation has a negative impact on the country's economy and reduces its attractiveness for foreign investors, therefore, preventive work to identify problematic aspects of the current bankruptcy legislation of Ukraine is an urgent need for Ukrainian society.

Legal entities occupy the most unfavorable position as bank creditors.

Thus, in accordance with Article 52 of the Law of Ukraine "On the System of Guaranteeing Deposits of Individuals," legal entities are in the 7th queue for meeting demands to the bank. Such requirements are satisfied at the expense of the funds received in the process of selling the property (assets) of the bank. That is, the requirements of each subsequent stage are satisfied as the above-mentioned funds are received (Law, 2012)

It is clear that, in practice, there will not be enough funds to meet the demands of creditors in the 7th queue.

In view of this, almost all legal entities, becoming hostages to the situation, will not receive their own savings. And this is absolutely legal. Since, in claims to the bank, they are not satisfied due to insufficiency, his property is considered repaid. Although it is legal entities that are the largest depositors in banks.

Also, a situation is common when a legal entity is both a creditor of the bank and its debtor. As we have seen, the funds on the deposit are unlikely to be paid, and the debt obligations of the specified legal entities remain and are subject to execution in accordance with the procedure established by law.

At the same time, most European Union countries have long since moved away from the practice of ranking creditors, emphasizing that all creditors have equal rights to the debtor's assets, which is the embodiment of the principle of justice that operates on the territory of the European Union.

Placing creditors in a certain sequence violates the principle of justice and has a negative impact on the state's economy. By equalizing all creditors in the EU countries, they were deprived of priority status and debts to the state (Insolvency Act, 1986). Countries followed the example of Austria in this matter. Finland, Sweden, etc. are also among the countries that have canceled tax priorities.

Therefore, at this stage, the availability of the order of creditors' demands satisfaction is an outdated approach, which has an extremely negative impact on the investment potential of the country, especially in the conditions of martial law.

In such a case, it would seem that the only way out is the practical implementation of Article 601 provisions in the Civil Code of Ukraine, which provides for the inclusion of counterclaims (Civil Code, 2003).

However, such a tool is not available for legal entities. In accordance with paragraph 5, Article 64 Code of Ukraine on Bankruptcy Procedures, the repayment of creditors' claims by offsetting counterhomogeneous claims is carried out with the consent of the creditor (creditors) in cases where this does not violate the property rights of other creditors (Code, 2018).

From the analysis of the legal position of the Supreme Court of Ukraine, it can be seen that the violation of the interests of other creditors during enrollment occurs if, as a result, the order of satisfaction of creditors' demands has changed.

Taking into account the complex ranking of creditors in Ukraine, the creditor's turn may simply not come, which makes the process of offsetting claims in bankruptcy a dead tool.

At the same time, according to European legislation, the inclusion of counterclaims in bankruptcy is mandatory. The liquidator is obliged to determine the amounts of the mutual debt and set off counterclaims, and only the difference can be proved in bankruptcy (Principles, 2013). According to the legislation of some countries, the settlement is not only carried out outside the process but the possibility of such a settlement cannot be excluded by agreement of the parties (Bankruptcy Act,1995).

Summing up, it can be noted that in modern conditions, legal entities have a rather limited opportunity to return their own funds from the bank.

In this regard, the only way to ensure investment attractiveness for Ukrainian banks is to guarantee the return of funds to its clients by introducing effective mechanisms at the legislative level.

First, it is necessary to abolish the division of creditors into ranks and ensure equal rights of all creditors in bankruptcy procedures, while it is necessary to remove the employees of an insolvent employer from the order of creditors by creating funds to guarantee wages for employees in the event of the employer's bankruptcy.

Second, to make changes to the legislation of Ukraine that would regulate the issue of liquidation netting in Ukraine (inclusion of counter uniform requirements).

Third, to supplement the Law of Ukraine "On restoring the debtor's solvency or declaring him bankrupt" and the Code of Bankruptcy Procedures with the definition of liquidation netting, etc.

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## INTERNATIONAL EXPERIENCE IMPLEMENTATION OF "GOOD GOVERNANCE": PECULIARITIES OF IMPLEMENTATION IN UKRAINE

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Goog governance was formed on the basis of the key concepts of democracy and the rule of law. It is involved in the formation of a system of values, policies and institutions that help to ensure effective governance of society through the interaction of the state, civil society and commercial structures. At the beginning of the XXI century the European Commission outlined "good governance" as one of its main strategic goals, as a concept of multi-level governance, political networks and the European Administrative Area. (Tkalya, 2020, p. 127)

In 2001, the European Commission adopted a White Paper containing the basic principles, rules and doctrine of Good Governance. This was one of the first impetus for its dissemination and implementation.

When reviewing the results of a 2018 study on the implementation of good governance principles at the municipal level in European countries such as Bulgaria, Greece, Spain, Malta, Norway, Poland, Council of Europe researchers noted that the current vision of the list of such principles for local governance involves the application of the following principles: participation; representation; fair elections; responsibility; efficiency and effectiveness; openness and transparency; rule of law; ethical behaviour; competence and accountability.(Tatarenko, 2018)

Each country has had its own peculiarities in implementing such rules: in *Germany* the approach to reforming certain sectors such as justice, education, and administration was changed. Such peculiarities also apply to constitutional amendments, consultations with civil society and support for legal organisations. In *Georgia* the doctrine of Good Governance includes law enforcement and the fight against corruption. The authorities are obliged to ensure the rule of law, equality before the law and an effective justice system for all citizens. With regard to the implementation of this doctrine in *Moldova* attention is drawn to strengthening democracy and protecting human rights, adopting transparent government mechanisms to fight corruption and establish economic development, including a focus on Euro-Atlantic integration.

It is worth paying attention to the gradual process of implementing the doctrine of good governance into Ukrainian legislation. Domestic legislation has a number of

provisions that allow us to conclude that the Ukrainian legal system is gradually being reformed in accordance with the requirements of "good governance." Articles 69-74 of the Constitution of Ukraine, the Law of Ukraine "On the All-Ukrainian Referendum", and the Electoral Code of Ukraine demonstrate the existence of the principle of participation, Articles 8, 21-68 of the Constitution of Ukraine - the principle of the rule of law, Article 19 of the Constitution of Ukraine - the principle of responsibility.

Thus, the specifics of implementing good governance depend on a set of traditions, cultural factors, the current state of public administration in the country and readiness for reforms, so Ukraine can benefit from the experience of European countries: all the advantages and disadvantages, stages of implementation and its features. In order to introduce such a doctrine in Ukraine and eliminate obstacles to its implementation, it is necessary to identify weaknesses and gaps in the legislation in order to build a mechanism for implementing good governance.

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## THE PROTECTION OF HUMAN RIGHTS IN THE ANCIENT WORLD IN THE CONTEXT OF MODERN SCIENCE

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The modern period of societal development and international law is characterized by a system of international legal mechanisms for the protection of

human rights, which includes international bodies and organizations that operate on the basis of international conventions, treaties, and acts. The activities of the international legal mechanism extend to all individuals regardless of skin color, religion, or race.

Violation of human rights and committing internationally unlawful acts by the state remain one of the most problematic issues that the international community faces in both times of peace and war.

The studying of the issues of human rights violations in the ancient period demonstrate that at that time there was no developed system of international legal protection of human rights. The norms of treaties and customs that emerged in the process of state activities in most cases did not protect human rights but rather addressed exclusively the most problematic international issues arising in the relations between states or peoples.

Despite the absence of a developed system of international legal mechanisms for protection of human rights in the ancient period, the works of Roman and Greek historians, philosophers, and military leaders, among whom the most famous are Polybius ("The Histories"), Livy ("History of Rome from Its Foundation"), Appian of Alexandria ("Roman Histories"), Diodorus Siculus ("Bibliotheca Historica"), Thucydides ("History"), Xenophon ("Hellenica"), partially described the internationally unlawful activities of states and peoples during the times of war or peaceful coexistence of states and peoples, as well as the status of individuals and their rights during the activities of states, peoples, or tribes.

In the work "The Histories" by the ancient Greek historian, statesman, and military leader Polybius, detailed events and relationships between Rome, Greece, Macedonia, and Carthage are described. Covering the events of the First and Second Punic Wars, which led to the fall of Carthage and the rise of Rome's power, Polybius highlights the conflicts between Rome and Carthage, as well as a series of treaties between Rome and Macedonia, Rome and the Seleucid Empire to regulate international conflicts. During the First and Second Punic Wars, several treaties were concluded between Carthage and Rome, where Carthaginians undertook obligations

to *"abandon all of Sicily and not to make war with Rome's allies"* (Book I, ch. 63), *"return all prisoners without ransom, pay 2200 Euboean talents of silver"* (Book I, ch. 63), a treaty between Romans and Carthaginians, as well as Tyrians and the people of Utica as a third party regarding the protection of residents and property, as well as prohibition of unlawful actions towards third parties (Book III, ch. 24), signing a treaty between Rome and Carthage after the end of the Second Punic War in which Carthage was obligated to *"pay ten thousand talents, return prisoners..."* (Book XV, ch. 18-19).

In the work "The History of Rome from its Foundation" by Titus Livius, the issue of compensation to a third party, namely the residents of the city of Saguntum, who became victims of Carthage's international unlawful activities led by Hannibal Barca, is also addressed. Livius mentions that envoys were immediately sent to Rome to address the matter, and a third embassy was dispatched to compensate the people of Saguntum (Book XXI, ch. 10).

Analyzing the provisions of the mentioned agreements, it can be noted that depending on the relationship of a person and their polis to Rome or Carthage, the question of the state's attitude towards the population of the respective territory during an attack or plunder was determined. In other words, the division into allies or "friendly polis" determined a certain protection of the individual, their ransom, protection of their property, or prohibition of committing certain unlawful acts. At the same time, with the tacit consent of one of the parties, internationally unlawful actions against other tribes, polis, or states with which friendly relations were not maintained or the question of maintaining friendly relations was not considered were allowed.

In the ancient period, there was no international legal mechanism for the protection of human rights. The lives and rights of people depended on individual political or military leaders who were endowed with full authority by a collegial council (the Senate). For example, during the capture of the city of Zakantha by Hannibal Barca, a large booty in the form of money, slaves, and property fell into *"his hands...the slaves were distributed among his people, and the property was sent*

*to Carthage"* (1, Book III, p. 24). Thus, the residents of this city who were loyal to Rome and under its protection became victims of the internationally unlawful activities of Carthage, which sought reasons and pretexts for war. Another example is the actions of the Roman general Publius Scipio, who captured the Carthaginian city of New Carthage in Iberia (modern-day Spain), personally distributed property, and determined punishments for different strata of the population of the city depending on their loyalty to Rome (1, Book X, p. 17).

At the same time, many thinkers of the ancient period advocated for "gentleness" in conducting war, for the use of violence only when necessary, and for humane treatment of prisoners. For example, Polybius wrote that for noble people, the purpose of war is not to kill and destroy the guilty, but to correct them and compensate for mistakes. Moreover, it is not advisable to *"exterminate the innocent along with the guilty in anything."* "Laws and rules of war" only allow capturing and destroying military objects, material values, and *"in general, everything the loss of which weakens the enemy, benefits the one who fights and facilitates the achievement of the goal"* [2, p. 141].

Analyzing the works of the aforementioned historians, the state and military leaders, it can be concluded that in the ancient period there was no developed system of international legal mechanisms to protect human rights. Any individual, regardless of their wealth or political status, could suffer international unlawful acts by a state, tribe, or nation. Most international disputes that arose between parties were resolved through the conclusion of peace treaties. Many treaties of the ancient period were concluded from the position of the victorious party.

At the same time, one cannot deny the absence of a certain protection of human rights in the ancient period. Most states, tribes, or nations, when resolving international disputes in times of peace or war, primarily sought to protect the rights of their own people and of people who, by cultural or religious characteristics, were at the same level of civilization (for example, ancient Greeks and Romans considered all other nations as barbarians who were at a lower stage of development and were not related to them culturally or religiously).

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## NATIONALE IDENTITÄT: ETHNISCHE UND POLITISCHE ASPEKTE

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"Identität" ist ein vielschichtiger Begriff, der in verschiedenen Bereichen der Wissenschaft verwendet wird und je nach Anwendungsbereich unterschiedliche Bedeutungen hat.

Zu den Klassikern, die sich mit der Frage der Identität beschäftigt haben, gehören die antiken Philosophen Parmenides, Platon und Aristoteles.

S. Freud definiert den Begriff der "Identität" als eine Art Selbstidentifikation einer Person mit bedeutenden Persönlichkeiten, nach deren Vorbild sie bewusst oder unbewusst handeln wollte (Freud, 1925, S. 154).

In seinem Werk Identität: Jugend und Krise betrachtet der amerikanische Psychologe E. Erikson die Identität als einen Prozess, der sich aus der Interaktion des Individuums mit seinem sozialen Umfeld und inneren Konflikten ergibt. Im Gegensatz zu S. Freud betont der Psychologe also die untrennbare Verbindung zwischen der menschlichen Identität und der Gesellschaft.

Eine ähnliche Position vertritt der Philosoph J. Herbert Mead, der wiederum die Identität als ein dauerhaftes, selbstbewusstes Selbstverständnis betrachtet, das sich durch die Interaktion mit der Kultur und anderen Individuen herausbildet, aber im Allgemeinen kann Identität als das Bewusstsein einer Person definiert werden, einer bestimmten sozialen Gruppe anzugehören, was es ermöglicht, den eigenen Platz im soziokulturellen Raum zu finden.

Es liegt auf der Hand, dass es zwei Dimensionen der Identität gibt: die individuelle und die kollektive, die L. Nagorna als "Ich-Identität" bezeichnet, die sich auf persönliche Merkmale bezieht, und die "Wir-Identität", die von der Korrelation mit nationalen, rassischen, geschlechtlichen, territorialen, religiösen, politischen, sprachlichen, beruflichen und anderen Zugehörigkeiten dominiert wird (Nagorna, 2003, S. 14-30).

In diesem Beitrag wird versucht, eine Form der kollektiven Identität zu untersuchen, die auf einer Korrelation mit der Nationalität beruht - die nationale Identität.

Es sei daran erinnert, dass die nationale Identität in Artikel 4 Absatz 2 des EU-Vertrags vom 7. Februar 1992 (in der Fassung vom 13. Dezember 2007) erwähnt wird. Auch in Absatz 3 der Präambel der Charta der Grundrechte der Europäischen Union von 2000 wird die nationale Identität erwähnt. Die nationale Identität wurde auch in Absatz 4 der Präambel des Vertrags über eine Verfassung für Europa 2004 erwähnt (Kolisnyk & Berchenko & Slinko, 2022, S. 78-80).

Um das Phänomen der nationalen Identität zu untersuchen, müssen wir zunächst den Inhalt des Konzepts "Nation" verstehen. Dabei ist jedoch zu beachten, dass die Nation in Form und Inhalt komplex und in Zeit und Raum so vielfältig ist, dass es äußerst schwierig ist, eine erschöpfende Definition dieses Konzepts zu geben.

Einer der ersten, der offen erklärte, dass es unmöglich ist, eine Nation zu definieren, war der berühmte Theoretiker der deutschen Sozialdemokratie, Kautsky. "Die Nation", schrieb er zu Beginn des 20. Jahrhunderts, "ist ein Schützling, der uns sofort entgleitet, sobald wir ihn ergreifen wollen, und der weiter existiert und einen starken Einfluss auf uns ausübt.

L. Nagorna weist darauf hin, dass die terminologische Mehrdeutigkeit der Begriffe "Nation" und "Volk" in den großen europäischen Sprachen weit verbreitet ist. In den meisten europäischen Ländern und in den Vereinigten Staaten fiel die Zeit der Nationsbildung jedoch mit dem Prozess der Bildung von Nationalstaaten zusammen, und das Zusammentreffen dieser beiden Begriffe wurde als normal angesehen. Die Ukraine hingegen befindet sich in einer völlig anderen Situation, da die Bildung der Nation vor dem Hintergrund einer jahrhundertelangen Staatenlosigkeit und der Zersplitterung des Territoriums stattfand (Nagorna, 2003, S. 14-30).

Auf dieser Grundlage können wir Nationen in solche unterteilen, die auf der Grundlage einer ethnischen Einheit entstanden sind, und solche, die außerhalb dieser Einheit gebildet wurden. Der Staat als politische Einheit wird traditionell als ein nicht-ethnischer Faktor bei der Bildung einer Nation betrachtet. Dies führt zu einer Unterteilung der Nationen in zwei Typen: ethnische und politische. Eine ähnliche Typologie wird insbesondere von J. Krejci und W. Wielimski vorgeschlagen: Sie unterteilen Nationen in politische (solche, die einen Staat, aber keine gemeinsame Sprache haben), ethnische (solche, die eine eigene Sprache, aber keinen staatlichen oder föderalen Status haben) und vollwertige (solche, die sowohl eine Sprachgemeinschaft als auch einen eigenen Staat haben) (Kasjanow, 1999, S. 74).

Eine Analyse der Arbeiten westlicher Wissenschaftler zeigt, dass der größte Beitrag zur Entwicklung der ethnischen Theorie der Nation von G. Nilsson, M. Novak, E. Smith und vielen anderen geleistet wurde. Das Wesen dieser Theorie wird aus dem Titel eines der äußerst populären Werke von E. Smith deutlich: "Ethnic Origins of Nations", das auch als "Ethnic Roots of Nations" übersetzt werden kann.

P. Van Den Berg gibt die folgende Definition: "Eine Nation ist eine politisch bewusste Ethnie, die aufgrund ihrer Zugehörigkeit zu einer Ethnie das Recht auf Staatlichkeit beansprucht". Wie E. Smith zu Recht feststellt, betrachten die Anhänger der ethnischen Theorie die Nation als eine große politisierte ethnische Gruppe, die sich durch eine gemeinsame Kultur und einen gemeinsamen imaginären Ursprung auszeichnet.

So wird eine ethnische Nation in der Regel als eine Gruppe von Menschen definiert, die sich durch eine gemeinsame ethnische Identität verbunden fühlen, die eine gemeinsame Sprache, ein gemeinsames Erbe, kulturelle Traditionen usw. umfassen kann. Dieser Ansatz basiert auf ethnischen oder kulturellen Bindungen zwischen ihren Mitgliedern, unabhängig von ihrem politischen Status.

Als einer der Begründer der politischen Theorie der Nation kann der niederländische Wissenschaftler Grotius angesehen werden, der einige ihrer Bestimmungen in seinem Werk "The Law of War and Peace" darlegte. Eine politische Nation, so schrieb H. Seton-Watson, ist eine Gemeinschaft, die neben kulturellen Bindungen auch über eine rechtliche Staatsstruktur verfügt (Schporljuk, 2000, S. 516).

Nach der politischen Theorie ist eine Nation in erster Linie eine politische Gemeinschaft, die alle Bürger eines Staates vereint, unabhängig von ihrer ethnischen und sozialen Herkunft, ihren kulturellen, sprachlichen und anderen Merkmalen. Mit anderen Worten: Politische Nationen werden von Menschen geschaffen, die aus bestimmten Überzeugungen, Bindungen und gegenseitiger Anerkennung hervorgegangen sind. Eine bestimmte Gruppe von Menschen wird zu einer Nation, wenn die Mitglieder dieser Gruppe durch ihre Zugehörigkeit zu dieser Gruppe eindeutig gemeinsame gegenseitige Rechte und Pflichten anerkennen.

Das Verständnis einer Nation als politisch oder ethnisch kann je nach dem Kontext oder der Besonderheit der Situation variieren. Wenn es zum Beispiel um nationale Minderheiten in bestimmten Staaten geht, wird die Nation in der Regel als ethnisch verstanden. Im Falle der belgischen oder kanadischen Nation hingegen handelt es sich in der Regel um eine politische Nation. Dies ist möglich, weil es viele

ethnische Gruppen gibt, von denen es unmöglich ist, eine Hauptgruppe herauszugreifen, oder weil sich eine politische Nation historisch aus mehreren ethnischen Gruppen gebildet hat.

Das Äquivalent einer politischen Nation ist das ukrainische Volk, und das Äquivalent einer ethnischen Nation ist die ukrainische Nation (Verfassung der Ukraine, 2020).

Eine Nation/Volk ist also eine Gemeinschaft von Menschen, die sich durch bestimmte Merkmale auszeichnet, die sie im Inneren vereinen und gleichzeitig von anderen Gemeinschaften unterscheiden. Zu diesen Merkmalen gehören vor allem: Geschichte, Territorium, Kultur, Traditionen, Sprache, Religion, politische Ausrichtung, Rechtssystem, Wirtschaft. Diese Liste umfasst nicht alle möglichen Faktoren und kann von Staat zu Staat variieren.

Nach der Analyse der Positionen von Wissenschaftlern in ihrer Dissertation kommt O. Nykorak zu dem Schluss, dass in der ukrainischen Wissenschaft, wenn es um nationale Identität geht, meist eine politische Nation gemeint ist (Nikorak, 2023, S. 60-62).

Daher kann davon ausgegangen werden, dass die ukrainische Identitätstheorie eher mit der Definition der "nationalen Identität der Mitgliedstaaten" im Vertrag von Lissabon übereinstimmt, deren politischer Aspekt im Vergleich zur "nationalen Identität der Mitgliedstaaten", wie sie in Artikel 6 Absatz 3 des in Maastricht angenommenen EU-Vertrags festgelegt ist, deutlich gestärkt wird.

Abschließend ist jedoch anzumerken, dass das Vorhandensein einer äußeren Bedrohung in Form einer bewaffneten Aggression durch einen Nachbarstaat im Laufe der Zeit den Schwerpunkt bei der Interpretation der nationalen Identität erheblich verändern und die ethnische Komponente deutlich stärken kann.

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## THE CONCEPT OF EXPERTOLOGY: THE PROBLEM OF DEFINITION

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The practice of involving knowledgeable people in resolving disputes and defending interests has been known since the days of Ancient Greece. Back then, professional speakers were invited to participate in general meetings of residents. In

the Roman Empire, doctors provided the first expert opinions. Similarly, lawyers are competent persons in the legal sphere of human activity. Expertise has gone through stages of evolutionary development: from occasional expert examinations based on urgent needs (request of an investigator and/or court practice) to systematic (for most examinations) conduct and creation of a scientific foundation. However, the question of the unambiguous interpretation of the concept of "expertology" remains open.

Etymologically, the concept of expertology is a mechanical combination of the Latin word expertus – experienced, proven and the Greek word logos – knowledge, doctrine. This determines the principle of combination generally accepted in logic, that it is the study of experienced persons and/or their activities in the most general sense. It is a branch of knowledge (science) about the examination of someone or something.

The general reference literature defines the concept of expertology as a "branch of legal science" that studies forensic examinations. Specialised legal literature provides a fairly clear definition of expertology with the addition of "forensic". However, there are still curricula, syllabuses, etc. that are called expertology, but refer to forensic expertology.

For example, "Expertology is an applied legal science, which by its genesis and general object (activities on detection and investigation of criminal offences and judicial proceedings in relation to them) and subject matter (patterns of collection, verification (research), evaluation and use of evidence) of research belongs to the cycle of sciences of the criminal cycle. The academic discipline of "Expertology" is closely related to legal, social, technical and natural sciences" (This quote is taken from the methodological manuals, one compiled by A. O. Liash and the other by P. P. Davydiuk). A concept has also emerged within the framework of the formation of the discipline: "Linguistic Expertology".

Due to the widespread use of law, there was also a need for regular examinations in this area. And in the late 10s of the XXI century, the discipline of forensic science and a textbook appeared in law universities and law faculties of universities, which provides the definition "Forensic Expertology is an integrative

multidimensional concept that includes natural, informational, legal, psychological, tactical, organisational, research and logical components" (Tertyshnyk, V. M., 2021, p. 7).

A considerable amount of special literature (O. R. Shlyakhov, N. T. Malakhovska, O. O. Eisman, Y. G. Korukhov, A. V. Ishchenko, O. R. Rossinska, M. Y. Sehai, N. I. Klymenko, V. S. Mitrychev, R. S. Belkin, M. S. Bokarius, I. A. Aliev, V. D. Arseniev, S. F. Bychkova, A. I. Vinberg, V. G. Honcharenko, F. M. Dzhavadov, T. M. Nadgornyi, V. K. Lysachenko, T. V. Averyanova and others) is devoted to the formation and development of forensic expertology – the science of the general theory of forensic examination.

Questions arise about forensic science as a separate branch of legal science, whether it is a doctrine in criminalistics, its place in the system of other branches of knowledge. Researchers have formed two views on the essence of forensic expertology: the first is that forensic expertology is of a legal nature, and the second is that it is a synthetic science that combines several branches of knowledge.

The majority of forensic scientists from the countries of the former USSR, in particular the Kyiv School (M. Sehai, P. Bilenchuk, H. Prokhorov-Lukin, A. Ishchenko, N. Klymenko, and others), adhere to the first view. The researchers recognised forensic expertology as an independent branch of legal science, but differed in their interpretation of its place in the system of other branches of knowledge. The researchers believe that its further development requires a clearer definition of the object and subject of the new science, its conceptual foundations, and its methodology. These features of science should be based on the model of expert knowledge and interdisciplinary doctrines for their ontological and gnosiological orientations.

Thus, for example, defining the place of forensic expertology in the system of scientific knowledge, O. O. Eisman (1980) noted that it is rather a part of forensic science - a separate one with specific problems, subject matter and tasks. It should be considered the doctrine of forensic examination in the system of forensic science. A. I. Vinberg and N. I. Malakhovskaya (1979) introduced the name "forensic

expertology" into scientific circulation. These researchers define it as a branch of legal science that studies the patterns, methodology, process of formation and development of the scientific foundations of forensic examination, as well as examines their objects, which makes it possible to have an idea of the subject matter of science and its place in the system of scientific knowledge.

Forensic expertology should study the general patterns and methodological problems of the theory of forensic examination and not descend to the level of individual types of examinations as a practical specific activity. The evolution of scientific ideas from the development of the theoretical foundations of forensic examination (O. R. Shliakhov, 50s of the twentieth century) to the creation of an independent branch of science on the general theory of forensic examination is a natural way of understanding expert practice and creating scientific theories about the subject, purpose and content of the new science – forensic expertology. The idea of the general theory of forensic examination does not repeat the theory of forensic examination of the 50s of the twentieth century. Some scientists (V. Goncharenko, V. Mitrychev) in the late 80s of the twentieth century denied this theory, using the arguments of that time.

The second view on the synthetic essence of forensic expertology was expressed by R. S. Belkin and T. V. Averyanova, O. V. Yunatskyi, I. V. Pirig. Their views are based on the processes of integration and differentiation of scientific knowledge, which are the result of scientific and technological progress and contribute to the formation of new types of sciences, and are also a factor in the development of the theory and practice of forensic examination. Scientists define the general theory of forensic examination as a system of worldview and praxeological principles as a theory itself. They recognise the object of expert activity, individual theoretical constructions in this area of scientific knowledge, methods of theory development and expert research, processes and relations - a comprehensive scientific reflection of forensic expert activity as a whole (Aliev, I. A., & Averyanova, T. V., 1992).

The place of forensic expertology in the system of legal sciences is also not clearly defined. Firstly, it is an independent legal science (A. I. Vinberg, N. T. Malakhovska, S. F. Bychkova, M. G. Shcherbakovskyi). Secondly, it is an independent legal discipline within criminalistics (R. S. Belkin, I. A. Aliev, T. V. Averyanova, F.M. Dzhavadov, V.Y. Koldin, Y.G. Korukhov, V.E. Kornoukhov, O.R. Rossinskaya, O.O. Eisman, and others) or evidence law (V.D. Arseniev). Thirdly, it is a part of the future science – general expertology (V. S. Mitrychev, M. Y. Sehai, N. I. Klymenko).

The general idea behind the creation of forensic expertology was the main (fundamental) pattern: despite all the individual differences between examinations of different genera and types, they all have many common positions, which are expressed in their purpose, theoretical justification, sources of origin, stages of development, functioning, regulation, organisation, etc. Also, the conditions that contributed to the solution of the task of creating forensic expertology were:

- the availability of extensive empirical material in certain types of examinations, the creation of separate theories of these examinations on this basis, which reflect their scientific foundations and patterns;
- development of principles, methodological, legal and organisational foundations of various types of forensic examinations, selection from this volume of the general that should be inherent in any type of examination, including those that are being created;
- availability of intermediate theoretical developments on certain problems of forensic examination, which are reflected in monographs, articles, educational and methodological literature;
- system of methods and techniques of expert research, which is constantly being improved and reflects the general scientific and technological progress;
- the presence of a developed system of state forensic institutions in various departments of the country that coordinate their practical and scientific activities. Thus, the purpose of forensic science is primarily to systematise the categories of all types of forensic examinations accumulated to date, namely: the concept of the

subject of examination, objects of research, expert tasks, expert knowledge, the concept of expert competence and competence, expert research technology and many others.

The theory of forensic expertology, as a model of practical activity, is intended to reflect the specifics of the expert's cognitive work, the methodology of expert research, and the conceptual directions of their general development: mathematisation, computerisation, and automation of expert proceedings. Instead, the science of expertology should consider the theoretical and practical foundations of expertise, enrich it with methodological material, etc.

We can agree with the opinion of I. V. Pirig (2017) "The only thing that connects forensic science with jurisprudence is the ultimate purpose of using the results of examinations – during the trial of a case" (p. 157). However, it was the development of the legal area, in particular forensic examination, that made possible the theoretical understanding of the concept of expertology. The very concept of "expertology" is broader than forensic or linguistic and requires further consideration.

The development of theoretical and methodological provisions of expert research, material means, led to the formation of a new scientific field of knowledge - the theory of general expertise, which is based on the unity of the essence of all genera and types of existing and future expertise. The emergence and formation of expertology was the result of modern trends in the differentiation and integration of scientific knowledge as one of the manifestations of the impact of scientific and technological progress.

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## TO THE ISSUE OF THE RIGHT TO A FAIR TRIAL IN CIVIL PROCEEDINGS

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In the context of globalization and new challenges facing humanity, particularly in the context of Russia's military aggression against Ukraine, the right to a fair trial requires further consideration in legal scholarship.

As a convention-based right enshrined in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, it is generally considered by most legal scholars to be either synonymous with the right to a trial or with the access to justice. However, the approaches mentioned above do not account the intersystem links of the right to a fair trial with the rule of law and the links between the individual components of the right to a fair trial; the approaches should be considered only as variants of the interpretation of the convention norm (Tsuvina, 2012). At the same time, in the context of civil procedural legal relations, it is appropriate to assert that the right to a fair trial is a component of the broader concept of access to justice, which in turn is included in the principle of the rule of law and serves as a guarantee of the civil proceedings itself (Pazii, 2020).

When considering the right to a fair trial as a systemic formation, which groups various elements of socio-legal reality based on connections, it is possible to argue that its structure consists of institutional and procedural elements (Vasiliu, 2021). At the same time, it is appropriate to assert the existence of an organizational element of the system, which manifests itself in the essential characteristic of the right to a fair trial to be properly implemented only in synergy with all the requirements imposed on it. Thus, access to court and the publicity of civil proceedings are important requirements of the right to a fair trial (Kurylo, 2020), but without taking into account other aspects, they are insufficient for the implementation of proper civil proceedings.

The digitalization of the judicial process is a necessity that is actively being implemented not only in legislation but also in practice, but it raises new questions for participants in civil proceedings. First of all, it is important to note that the necessary competence for the implementation of the right to a fair trial is becoming an increase in the computer literacy of the population, awareness of basic legal procedures related to electronic civil court proceedings, and so on.

At the same time, there is an important issue of ensuring the participation of those persons who are situated in areas classified as combat zones or areas where combat operations are possible. In this context, it is not only about the barriers associated with the functioning of communication means, but also about the opportunities for such participants to have sufficient time to prepare the necessary remedies. It is about issues of restoring missed deadlines, being informed about the status of the case, ensuring safe conditions of stay during the court hearing in the event of an air alert, if the location of the participant and the court during the air alert does not coincide and there is a need to go to the shelter. Such conditions of the participant of the civil case should not have negative procedural consequences for the latter, etc. All of the above aspects need to be taken into account in the context of the requirements of the right to a fair trial.

It is impossible to ignore the issue of procedural filters. I believe that in the conditions of martial law, there is a need to weaken procedural filters that can serve as procedural barriers. At the same time, the balance between public and private

interests, the overload of the judicial system should be resolved in favor of expanding the staff of the court apparatus, with adequate material support, to preserve the working capacity of the courts in the conditions of the war crisis.

Thus, the right to a fair trial is an important component of civil proceedings, which in the conditions of complex social transformations and war requires due attention from legislative and law enforcement bodies**.**

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## TOPICAL ISSUES OF MODERN LEGAL SCIENCE: CHALLENGES AND WAYS TO SOLVE THEM

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Modern legal science faces a number of pressing issues that require careful analysis and practical solutions. These problems are complex and are related to dynamic changes in society, the development of new technologies and globalization.

The analysis of recent research and publications shows that scholars and legal professionals pay constant attention to the issue of legal science, its development in the context of modern challenges, its functions and main tasks. Such scholars as A.

Grubinko, K. Humeniuk, S. Husarev, O. Didenko, M. Kostytskyi, O. Melikhova, G. Potapov, P. Rabinovych, O. Skakun, I. Sopilko, A. Selivanov, V. Tatsiy, V. Cherevatyuk have devoted their works to the issues related to the state of national legal science.

However, the need to improve the processes of lawmaking and law application requires further scientific study and modernization within the legal sciences. In our opinion, the most significant issues of modern legal science are the following:

*Artificial intelligence and the latest technologies.*

- The impact of artificial intelligence on legal relations and areas of legal regulation.
- Legal aspects of autonomous systems and decision-making algorithms.
- Personal data protection and cybersecurity.
- Ethical and legal issues of using AI in law.

*Globalization and cross-border legal relations.*

- Harmonization and unification of national legislation.
- Resolving conflict of laws rules and recognizing foreign judgments.
- Fighting transnational organized crime.
- Protection of human rights in the context of globalization.

*Access to justice and reform of the legal system.*

- Improving the accessibility and quality of legal aid.
- Ensuring transparency and independence of the judiciary.
- Fighting corruption and reforming law enforcement agencies.

*Protection of human rights and fundamental freedoms.*

- Protection of personal data and privacy.
- Fighting discrimination and inequality.
- Ensuring freedom of speech and information.
- Protection of the right to life, health and dignity [1].

*We should also note the challenges faced by legal science* [2].

- The need to constantly update knowledge and adapt to new conditions.
- Ensuring the dynamic development of legal science and practice.
- The complexity of the problems.
- The need for an interdisciplinary approach to the study of legal issues.
- Involvement of knowledge from other fields of science, such as sociology, economics, and political science.
- The need to fund research and human resource development.
- Ensuring access to legal information and resources.

The foregoing does not provide a complete list of issues of modern legal science, but it identifies and outlines ways to address the current problems of modern legal science [3]:

*Development of scientific research.*

- Conducting fundamental and applied research on current legal issues.
- Encouraging interdisciplinary research and cooperation with experts from other fields.

*Improving legal regulation.*

- Developing and adopting new laws that meet today's challenges.
- Harmonization of national legislation with international legal standards.

*Professional development of lawyers.*

- Ensuring quality legal education and training.
- Implementation of lawyers' professional development programs.

*Raising legal awareness.*

- Conducting legal education and information campaigns.
- Encouraging citizens to participate in the legal life of the country.

**Conclusions.** Modern legal science should contribute to the improvement of legislation through scientific analysis and justification, as well as ensure consistency and harmony of legal norms. The problems that require attention include politicization, lack of new approaches in legal research, idealism and nihilism in the legal sphere, lack of innovation and methodological basis. In order to overcome these challenges, it is necessary to revise the worldview in scientific research and develop a scientifically sound development strategy

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## SOME LEGISLATIVE NOVELTIES REGARDING WORKING TIME IN THE DRAFT LABOR CODE OF UKRAINE 2024

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Labor legislation reform continues to be one of the pressing issues for law-making and law enforcement activities in Ukraine. This is repeatedly emphasized by

scientists in their research on industry issues (L.P. Amelicheva, S.V. Vyshnovetska (Vyshnovetska, Amelicheva, 2022), O.M. Rym (Rym, 2020), O.H. Sereda (Sereda, 2023), O.M. Yaroshenko (Yaroshenko, 2023) and others).

Ukraine's declared course towards European integration and the need for harmonization of Ukrainian legislation with European regulations and standards have determined new directions for developing changes to legal acts regulating labor relations. In order to carry out the reform, a draft Labor Code of Ukraine was developed (Draft, 2024). It reflects both established legal norms governing labor relations and new provisions that correspond to modern trends in the development of this area of relations.

The object of regulation of Section 2 of the draft Labour Code is the working conditions of employees. Chapter 1 of this Section sets out the provisions on working time. For the first time, the concept of working time is proposed to be enshrined at the level of the Code. The definition of working time is in line with EU Directive 2003/88/EC on certain aspects of the organisation of working time (Directive 2003/88/EC). This act of EU legislation establishes minimum standards for the organization of working time to ensure the safety and health of workers. Working time is proposed to be understood as the entire time an employee is at the disposal of the employer and/or performing work duties in accordance with the terms of the employment contract (Part 1 of Article 84 of the draft Labor Code). Such a novelty is necessary in the context of guaranteeing an employee's constitutional right to rest (Article 45 of the Constitution of Ukraine). It should be noted that such a change corresponds to that enshrined in Art. 13 of EU Directive 2003/88/EC the principle of "the general principle of adapting the work to the employee".

According to O.M. Rym, the essence of this principle is defined by the thesis that "working time should be organised around the needs of both employers and employees" (Rym, 2020).

The novelties of the Draft Labour Code regarding the duration of working time are as follows:

1) its maximum duration is calculated taking into account normal working hours and overtime - it should not exceed 48 hours in each seven-day period (Article 84 of the Draft Labour Code). This change is an attempt to implement EU norms into Ukrainian labour law. As noted by O.M. Rym, European legislation allows not to apply the limitation of the number of working hours if the employee has previously notified the employer (Rym, 2020);

2) a daily maximum working time is proposed - it cannot exceed 12 hours in any 24 hours, and for employees working in hazardous and difficult conditions - no more than 8 hours in any 24 hours;

3) the annual maximum for overtime is 360 hours per year. According to Article 66 of the current Labour Code of Ukraine, the maximum number of hours of overtime per employee per year is 120 hours (The Labour Code,1971);

4) the draft Labour Code does not apply the concept of "reduced working hours" and excludes provisions on working hours for employees aged 16-18; the type of working hours provided for in Article 51 of the Labour Code is defined in the draft Labour Code as normal for specific categories of employees;

5) the duration of working time under a student employment contract is determined by the employer in agreement with the educational institution and must comply with the employee's training curriculum. The current Labour Code of Ukraine does not regulate the issue of a student agreement, including the rules for determining working time under it. By studying foreign experience, N.M. Vapnyarchuk substantiated the need to provide for the specifics of apprenticeship agreements and the necessary essential terms of such an agreement in the Labour Code of Ukraine, in particular, the rules for determining the duration of working time (Vapnyarchuk, 2015).

The concept and rules for applying overtime are expected to change. Thus, the draft Labour Code defines overtime as work in excess of the normal working hours set out in the employment contract during a day (shift) or other accounting period. It is worth noting that the draft Labour Code expands the list of cases when employees may be required to work overtime. In contrast to the current provisions of Article 62

of the Labour Code of Ukraine, which exhaustively provides for exceptional cases of overtime, the legislator proposes to transfer this issue to the sphere of contractual regulation (part 6 of Article 84 of the Draft Labour Code (Draft, 2024). Such cases can be stipulated in an employment and/or collective agreement.

We consider it a positive development that the draft Labour Code regulates in detail the rules for the application of summary timekeeping (Article 88) ((Draft, 2024).

Article 89 of the draft Labour Code reflects the provisions of Draft Law №. 5695 "On Amendments to Certain Legislative Acts of Ukraine Regarding the Regulation of the Labor of Domestic Workers " (Draft № 5695, 2021). A new concept of "working time of domestic workers" is introduced. This will include employees whose work is related to household maintenance. It also defines the specifics of establishing and calculating the working time of domestic workers, sets out the grounds and procedure for engaging them in overtime work, and defines waiting time and time spent accompanying household members as part of the working time of domestic workers.

To summarize, the norms of the draft Labor Code contain a significant number of working time provisions necessary for the implementation, which comply with European standards and are necessary for law enforcement practice.

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## LEGAL INTERPOLATION IN THE CONTEXT OF THE LEGAL SYSTEM OF UKRAINE

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The application of legal interpolation within the Ukrainian legal system is characterized by its adaptability to diverse legal sources and dynamic societal changes (Gregoli, F, 2013). Ukrainian law integrates various legal sources, including statutes, customary law, and judicial precedents, necessitating a nuanced approach to legal interpolation. Interpolation serves as a mechanism to bridge gaps or resolve ambiguities arising from the evolving nature of Ukrainian law, ensuring consistency and coherence in legal interpretation and application (Schabas, W. A. 2012).

Judicial discretion plays a significant role in interpreting and applying legal interpolation, allowing courts to fill lacunae in legislation and reconcile conflicting legal provisions within the Ukrainian legal framework (**O. Kravchenko 2017).**

The influence of international law further enriches the landscape of legal interpolation in Ukraine, as courts may draw upon international norms and standards to interpret and apply domestic laws effectively. The peculiarities of legal interpolation in Ukraine reflect a blend of legal traditions, judicial discretion, and the dynamic nature of the legal landscape, contributing to the ongoing evolution of the country's legal system (Bertea, S. 2014).

Analysis of judicial practice regarding the application of legal interpolation provides insights into the interpretive trends and methodologies employed by Ukrainian courts. Ukrainian courts often resort to legal interpolation to address gaps or ambiguities in legislation, as evidenced by a thorough examination of their judicial decisions (Gregoli, F, 2013). Judicial interpretations involving legal interpolation reflect the judiciary's role in shaping legal principles and filling lacunae within the Ukrainian legal framework. The consistency or divergence in judicial approaches to legal interpolation highlights the dynamic nature of legal interpretation within the Ukrainian legal system (**O. Kravchenko 2017).**

Examination of case law demonstrates the judiciary's reliance on legal precedent, legislative intent, and societal values in applying legal interpolation (Schabas, W. A. 2012). Analysis of judicial reasoning behind the application of legal interpolation provides valuable insights into the evolving nature of Ukrainian law and

the judiciary's role in its interpretation and application. Analysis of judicial practice regarding the application of legal interpolation in Ukraine allows identifying the main approaches of courts to interpreting legislation and filling gaps in the law (Bertea, S. 2014). The judicial practice concerning the use of legal interpolation in Ukraine reveals the diversity of approaches of different judicial instances to resolving legal issues.

Analyzing judicial decisions regarding legal interpolation helps identify certain trends in its application and determine deficiencies in legislation that require further clarification (Gregoli, F, 2013). Judicial practice in Ukraine reflects different schools of thought regarding the interpretation of the law and can have a significant impact on the formation of legal standards and principles.

Analysis of judicial practice also reveals the role of judicial discretion and their interpretation of the law in resolving legal cases. Ukrainian courts may use legal interpolation to establish new legal standards or adapt existing norms to changing conditions (Bertea, S. 2014). Examination of judicial decision-making practice in the context of legal interpolation underscores the need to ensure consistency and predictability in the operation of the judicial system **(Tsymbaliuk O. M. 2015).**

Studying judicial decisions on legal interpolation can identify deficiencies in legislation and contribute to further improvement of the legal system in Ukraine (Gregoli, F, 2013).

The challenges and prospects of legal interpolation in Ukraine highlight the need for continuous refinement of interpretive methodologies and legal frameworks. Issues surrounding legal interpolation in Ukraine include inconsistencies in judicial decisions, which may stem from differing interpretations among judges.

Prospects for the development of legal interpolation in Ukraine lie in enhancing judicial training and promoting greater consistency in legal reasoning across courts (Gregoli, F, 2013).

The complexity of legal interpolation in Ukraine is compounded by the coexistence of various legal traditions and sources, necessitating a harmonized approach to interpretation. Addressing the challenges of legal interpolation requires

legislative reforms aimed at clarifying ambiguous legal provisions and providing guidance to courts.

Prospects for the future development of legal interpolation in Ukraine may involve leveraging technology to streamline legal research and enhance consistency in judicial decision-making interpolation **(Tsymbaliuk O. M. 2015).**

Ensuring transparency and accountability in the application of legal interpolation is crucial for maintaining public trust in the judiciary and the legal system as a whole.

Challenges in legal interpolation may arise from discrepancies between domestic legislation and international legal standards, highlighting the need for alignment and coherence in legal interpretation (Schabas, W. A. 2012).

Prospects for enhancing legal interpolation in Ukraine include fostering interdisciplinary collaboration among legal scholars, practitioners, and policymakers to address emerging legal issues effectively.

Overcoming the challenges and seizing the prospects of legal interpolation in Ukraine requires a concerted effort from all stakeholders to promote the rule of law and ensure access to justice for all citizens (Bertea, S. 2014).

In conclusion, the examination of legal interpolation within the Ukrainian legal system reveals both challenges and opportunities for its development. The analysis of judicial practice underscores the need for consistency and coherence in legal interpretation across courts. While issues such as inconsistencies in judicial decisions and discrepancies between domestic legislation and international legal standards present hurdles, prospects for improvement lie in enhancing judicial training, fostering interdisciplinary collaboration, and leveraging technology to streamline legal research.

Addressing these challenges and seizing the development opportunities will require concerted efforts from all stakeholders to promote the rule of law, ensure transparency and accountability in the judiciary, and ultimately, enhance access to justice for all citizens.

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## WAYS OF LEGALIZING THE STORAGE AND USE OF FIREARMS IN UKRAINE

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The legalization of firearms has long been debated in Ukraine, especially after the full-scale invasion of Russia in 2022. There are many arguments “pros” and “cons”. One of the main statements is that our country currently requires significant resources and well-trained soldiers to protect our Motherland. Therefore, if most of our citizens are able to carry and use weapons, it could provide a solid foundation for our future victory.

The primary international body that determines the legislation of states regarding possession and legal distribution of firearms is the United Nations (UN). According to UN reports, the downside of easy access to weapons is that 4 million people have died from firearm-related incidents worldwide since 1990, with approximately 90% of these fatalities being civilians. Currently, there are at least 639

million firearms in circulation globally, which translates to roughly one firearm for every twelfth person on Earth.

Many other countries have already legalized firearms, so it would be beneficial for Ukraine to learn from their experience. Legislation in different countries varies significantly in how it regulates this issue. Based on the criteria for the right of the population to the armed protection states can be divided into three groups:

- **The first group.** These countries completely legalize the use of firearms, making them freely available. An example is the United States of America (USA).;

- **The second group.** These countries legalize firearm use under specific circumstances, requiring individuals to undergo certain procedures for obtaining them. For instance, the Czech Republic using testing and health certificates;

- **The third group.** These states either have not legalized firearm use or have only legalized specific types of weapons (such as short-barreled or long-barreled firearms). Ukraine falls into this category.

But if we look at the situation in Ukraine such permission is not enough for our country to be protected from the aggressor state. That is why we will further examine the main forms of firearms legalization to determine the most suitable approach for Ukraine.

One of the brightest representatives of countries where firearms are legal is the USA. The Second Amendment to the US Constitution declares that the right of the people to keep and bear arms should not be restricted. Even the founders of America saw an armed population as a guarantee of protection against tyranny. The Fourteenth Amendment has already been adopted to protect this right against violations by the states. The US Supreme Court has noted that individuals have a fundamental right to keep those types of weapons that are commonly used by law-abiding citizens for self-defense, hunting, and other legitimate purposes.

While this form of legalization can be a good option for countries with a strong culture of responsible weapon use, in modern Ukraine, it could lead to undesirable consequences.

In my opinion, the best model for our country's development in this area is Switzerland's experience. In Switzerland, the law guaranteeing the right to own a weapon was adopted in 1997. According to statistics, 29% of the population now owns small arms. Until 2010, all able-bodied men in this state were required to keep automatic rifles at home or in local armories. Despite a high percentage of gun ownership, Switzerland has one of the lowest crime rates. In Switzerland, all men between the ages of 20 and 50 are in the military personnel reserve and have the right to bear arms. Every citizen is considered a militia soldier and, after serving in the army, receives a rifle from the state in case of war or other emergencies. This allows Switzerland to effectively defend its borders in the event of armed conflict and to be one of the most well-armed nations in the Europe.

This type of firearms legalization is the best option for Ukraine because, under such circumstances, every military member, active or in reserve, will have their own rifle, and they will have already been trained to use it. In that case, our country will be prepared to quickly repel any future aggression.

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## TOWARDS HARMONIZING UKRAINIAN CRYPTOCURRENCY REGULATION WITH EU STANDARDS

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Ukraine stands at a critical juncture before its existential choice, where the embrace of democratic values has become an imperative. However, the mere

declaration of intent does not guarantee the seamless integration of these values into the state apparatus. As Ukraine forges ahead, it must actively demonstrate its commitment to democratic principles across all domains, including the rapidly evolving cryptosphere.

This work endeavors to shed light on the existing disparities between Ukrainian cryptocurrency regulations and the frameworks proposed by the European Union (EU), particularly the forthcoming Regulation (EU) 2023/1114 on markets in crypto-assets (MiCA) (European Parliament, 2023). Despite aspirations for EU integration, Ukraine's current and planned regulatory landscape diverges significantly from the standards set forth by the MiCA (NSSMC, 2023), creating a regulatory misalignment that could hinder the country's economic and legal development.

The proposed Ukrainian law project "On Virtual Assets" (№ 2074-IX) (Verkhovna Rada, 2021) serves as a prime example of this disconnect. Despite its intentions, the legislation failed to keep pace with international best practices and was rendered obsolete before its implementation (NSSMC, 2023). This setback underscores the urgency for Ukraine to realign its regulatory approach with MiCA standards to facilitate smoother integration into the EU market.

One glaring issue lies within the existing Ukrainian legislation governing capital markets, which inadequately addresses the classification of crypto assets as financial instruments (Verkhovna Rada, 2006). This oversight not only contradicts the preamble of the MiCA but also disregards the potential for certain crypto assets to qualify as financial instruments under Article 4 (1)(44)(a-b) of Directive 2014/65/EU (MiFID) (European Parliament, 2014.) Failure to rectify this discrepancy not only perpetuates regulatory ambiguity but also impedes the development of decentralized autonomous organizations (DAOs) within Ukrainian law, which shall exploit the unique characteristics of financial instruments the same way it is set for shares. Since the vast majority of DAO's governing tokens may be securities (Securities and Exchange Commission, 2017.)

Besides, the concept of DAOs, governed by tokenholders, can be mirrored by the mechanism of traditional joint-stock companies' shares, where shareholders'

rights are certified by stocks or shares and entitles them to manage the entity. However, Ukrainian law currently lacks the necessary crypto-assets framework to accommodate such decentralized structures, creating a regulatory void that stifles innovation in the burgeoning field of web3 technologies.

Thus, Ukraine must adopt a systematic approach to reform its regulatory framework. Firstly, it is imperative for Ukraine to adopt standardized definitions in line with MiCA terminology, such as “crypto-asset,” to ensure consistency and legal clarity across jurisdictions. The divergence in terminology, exemplified by Ukraine’s use of “virtual assets,” not only complicates cross-border transactions but also undermines legal certainty within the domestic market.

Secondly, Ukraine should categorize crypto-assets into distinct forms, including utility tokens, asset-referenced tokens, and electronic money tokens, (European Parliament, 2023) in accordance with MiCA classifications under Article 3 (5-7) (European Parliament, 2023). Additionally, recognizing that certain crypto-assets may qualify as financial instruments necessitates amendments to existing laws, particularly the “On Securities and Stock Market.” Introducing provisions to extend the legal regime of financial instruments to encompass crypto-assets is essential to provide a robust regulatory framework that fosters investor protection and market stability.

Moreover, acknowledging that crypto-assets can represent shares in companies, such as DAOs, or serve as investment vehicles, Ukraine must establish clear criteria to determine when such assets qualify as financial instruments. Drawing inspiration from the Howey Test, which assesses whether an investment contract constitutes a security, Ukraine can apply similar principles of “the investment of money in a common enterprise with a reasonable expectation of profits to be derived from the efforts of others” (U.S. Supreme Court, 1946) to ascertain the regulatory status of crypto-assets. This approach ensures alignment with international practices while accommodating the unique characteristics of digital assets within the legal framework.

In conclusion, Ukraine's journey towards harmonizing its cryptocurrency regulation with EU standards requires a multifaceted approach encompassing legal definitions, asset classifications, regulatory mechanisms, and governance frameworks. By aligning its regulatory framework with MiCA and MiFID principles, Ukraine can foster an environment conducive to the growth of crypto-assets while safeguarding investor interests and ensuring regulatory compliance.

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# COMPARATIVE AND LEGAL CHARACTERISTICS OF LITHUANIAN TAX SIMILAR TO DOMESTIC TOURIST TAX

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The establishment of a municipal tax, or the so-called "pillow tax," in Lithuania is a relatively new experience aimed at increasing the revenue of local budgets through funds from tourists. The "pillow tax" is already collected in Druskininkai, Palanga, Birštonas, Trakai, Anykščiai, Vilnius, and Kaunas.

According to the decision of the Druskininkai Municipal Council, the local fee (pillow tax) has been levied since 2011 on guests of the city who use accommodation services to access the public tourist and recreational infrastructure of the resort of Druskininkai. It is noteworthy that the tax rate is not differentiated for domestic and inbound tourism, as is the case in Ukraine. The tourist fee rate is 1 euro per person, but it is reported that the rate will increase to 2 euros from 2025 (As of 1 January 2024, the amount of the Tourist Fee in Vilnius City will change, 2023). The basis for taxation in this case is the number of nights spent in the city. Such a practice is also found in other municipalities.

For example, in Vilnius, the city tax was introduced in 2018 by Decision No. 1-1266 of the Vilnius Municipality. This act established a municipal tax rate of 1 euro, with tax exemptions granted to students, patients undergoing medical rehabilitation funded by the Mandatory Health Insurance Fund, individuals with disabilities from 0 to 40% of working capacity, groups renting ten or more rooms, individuals under 18 years of age, and persons renting accommodation for more than 1 month are exempt from paying such tax (Regulations for local fees for use of the Vilnius municipal public tourism and recreation infrastructure, 2017). For example, Article 268.2.2. of the Tax Code of Ukraine contains a somewhat wider list of persons eligible for tax relief from tourist tax (Tax Code of Ukraine, 2024, Article 268.2.2).

As of January 1, 2024, the tax rate has been increased to 2 euros per person per night in Vilnius (As of 1 January 2024, the amount of the Tourist Fee in Vilnius City will change, 2023). Interestingly, domestic tourists are not exempt from paying such tax, and unlike in Ukraine, they do not have a lower tax rate.

By introducing the tourist fee, the municipalities of Vilnius have approved specific directions for the use of accommodation payments in the city: increasing awareness of the city, improving the accessibility of the international city (for example, expanding air routes), promoting conference tourism, and enhancing the tourist attractiveness of Vilnius (infrastructure solutions).

The regulations for the local fee for using the public and recreational infrastructure of the city of Palanga, approved by the Decision of the City Council of Palanga on June 6, 2013, No. T2-167 "Regarding the local fee for using the public and recreational infrastructure of the resort city of Palanga" (Rinkliavos ir mokesčiai | Palangos turizmo informacijos centras, n.d.). The procedure and rate of the tourist fee are identical to other cities, except for the discussions held in 2015 regarding the possibility of abolishing the "pillow tax" and introducing a one-time fee of 5 euros upon arrival in Palanga. However, such discussions did not have their regulatory expression (Vilnius considers pillow tax to fund tourism promotion - the Lithuania Tribune).

A common feature across all municipalities is that accommodation providers act as tax agents, as well as individuals who provide accommodation services under a business license issued by the State Tax Inspectorate according to the relevant code/class of economic activity for renting premises and providing accommodation services, including hotels, hostels, and private residences rented out to tourists. Similar provisions are found in Ukrainian legislation as well.

Thus, the establishment of a municipal tax or "pillow tax" is a new phenomenon in Lithuania aimed at increasing the revenue of local budgets through funds from tourists. The "pillow tax" is already levied in Druskininkai, Palanga, Birštonas, Trakai, Anykščiai, Vilnius, and Kaunas. The tax is typically paid by the hotel or other accommodation providers and added to the guest's bill rather than

included in the room rate. The introduction of the "pillow tax" in Lithuania aims to provide financial support to the tourism industry and develop local tourism infrastructure. A significant difference is the absence of differentiation in the tax rate based on inbound or domestic tourism.

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## FUNCTIONING OF THE NATIONAL ECONOMY: THEORETICAL AND PRACTICAL APPROACH

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The attack of the Russian Federation on the territory of Ukraine, occupation of its part and the full-scale war resulted in changing the society life, including the functioning of public institutions, which began performing specific functions caused by military aggression. Thus, to ensure victory over the enemy, society needs restructuring. First, it concerns the national strategy in the economic sphere.

Now, the issue of ensuring the national defensive potential and mobilization readiness is extremely important. Thus, ensuring proper legal regulation of economic activity becomes the basis for the national defence capabilities. Establishing and improvement of the available legal and economic conditions and mechanisms is a prerequisite for optimizing the distribution of responsibility between the state, business entities of all forms of ownership and the entire Ukrainian society as a subject of the establishment and practical implementation of the national policy under martial law.

The functioning of the national economy, especially within the period of martial law, requires introducing effective mobilization regime, which is implemented by public authorities, bodies of local self-government, and national institutions and organizations.

Meanwhile, the mobilization aspect of the national economy is relevant not only in the case of hostilities, but also in the case of economic, including financial, resource, and migration crisis, pandemic, man-made, climatic threat, etc. (Zadykhailo, 2007).

The national laws provide for a number of special legal regimes introduced in Ukraine or in some of its territories if there are grounds for that, for example, in the case of imposing a state of emergency, martial law, a state of emergency environmental situation, mobilization and mobilization training.

The legal regimes of the extraordinary states provide for certain features of regulating economic relations, but in general, the economic management sphere has not become an objective and comprehensive component of the relevant regulations.

The mobilization model means a model of functioning the national economy in the mobilization regime(-s) in the event of the significant external or internal factors

generating dysfunction, failures and disproportion of functioning of economic mechanisms in the usual way.

In order to cover all possible cases of the necessity to transition to the mobilization regime of the national economy, an extremely important issue is establishing a balanced classification of the types and grounds for the imposition of mobilization regimes.

Establishing effective mobilization regimes is possible only with a systematic approach in both economic and legal aspects. Analysing the economic condition and development of the national economy as a whole, it is necessary to establish effective legal regulations, which could not only govern the social relations, but also introduce new technologies for their harmonious and powerful development.

It should be noted that the applicable regulations, such as the Law of Ukraine «On the Legal Regime of Martial Law» (2015), the Law of Ukraine «On the Legal Regime of the State of Emergency» (2000), the Law of Ukraine «On Mobilization Training and Mobilization» (1993) determine the legal regime in the state as a whole, but fail to regulate all relations in society.

Thus, a systematic approach to the issues specified in the legal aspect will ensure determining possible mobilization regimes in Ukraine, their types, classification and mechanisms of their regulation involving public and private sectors.

Thus, in order to regulate social relations within the period of the martial law, state of emergency and other states, it is necessary to establish a legal institutionalization of imposing the mobilization regime of the national economy, which will enable not only to increase the national mobilization readiness, but also prevent adverse economic effects.

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## CONDITIONS PREALABLES ET MOTIFS DE L'INTRODUCTION DE NORMES DE GENRE DANS LA LEGISLATION DES PAYS EUROPEENS

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La question de l'identité sexuelle a bouleversé les sociétés du monde entier avec une force nouvelle. Les personnes transgenres revendiquent avec assurance leurs droits et exigent du législateur qu'il les garantisse.

Après avoir surmonté un long parcours historique marqué par les brimades, le harcèlement, la reconnaissance de l'identité transgenre comme une maladie, les expériences et les traitements forcés, les personnes transgenres obtiennent progressivement le droit au respect de la vie privée dans la vie familiale, la liberté de choisir leur sexe et d'adopter des enfants.

Les approches législatives visant à garantir les droits de cette catégorie de personnes varient d'un pays à l'autre. Actuellement, plusieurs arrêts de la Cour européenne des droits de l'homme traitent des droits des personnes transgenres. Les

décisions de la Cour européenne des droits de l'homme, dans lesquelles l'objet de l'examen était les relations entre les sexes, sont présentes dans les affaires Christine Goodwin c. Royaume-Uni (2002), Van Kück c. Allemagne (2003), Y.Y. c. Turquie (2015) , A.P., Garçon et Nicot c. France (2017), B c. France (1992) et autres.

La décision rendue dans l'affaire «Christina Goodwin contre le Royaume-Uni» a contribué de manière significative au développement de la législation sur l'identité transgenre.

L'affaire Christina Goodwin contre le Royaume-Uni (2002) a conclu à une violation des droits de la requérante à la vie privée et au bien-être familial en raison de problèmes liés au système d'assurance après son changement de sexe. Selon le tribunal, elle a dû continuer à payer des primes d'assurance au Fonds national d'assurance (FNI) à un niveau qui ne correspondait pas à son nouveau sexe. Cela lui a demandé des efforts supplémentaires et lui a rendu la vie plus difficile, notamment en l'obligeant à se rendre en personne pour effectuer des paiements réguliers afin d'éviter des questions désagréables de la part de ses employeurs. Le tribunal a estimé que ce traitement violait son droit à la vie privée, car toute personne doit se voir garantir le droit à la dignité et à l'égalité devant la loi, quelle que soit son identité sexuelle.

Cette décision de justice constitue une étape importante dans la protection des droits des personnes transgenres et dans la reconnaissance de leur dignité et de leur identité. Elle a non seulement mis en évidence la nécessité de mesures législatives pour protéger les droits des personnes transgenres, mais elle a également influencé le développement ultérieur de la législation visant à reconnaître et à protéger les droits des personnes transgenres, y compris l'adoption de la loi britannique sur la reconnaissance des personnes transgenres en 2004. Cette décision souligne la nécessité d'une attitude tolérante de la société et du respect des principes d'égalité et de justice devant la loi pour tous les citoyens, quelle que soit leur identité de genre.

L'importance de la consécration des normes "trans" apparaît dans l'affaire B c. France (1992), dans laquelle, pour la première fois dans l'histoire de la Cour européenne des droits de l'homme (CEDH), il a été reconnu que l'absence de reconnaissance juridique du changement de sexe dans la législation nationale

constituait une violation de la Convention. La Cour a noté la particularité de cette affaire par rapport aux affaires précédentes en raison du fait que la loi française n'autorisait pas l'utilisation de noms autres que ceux indiqués dans l'acte de naissance.

L'importance de cette décision a incité le législateur à prêter attention aux personnes transgenres et à entamer le processus de création et de mise en œuvre de nouvelles normes.

L'initiative législative a été exprimée dans la loi française n° 2016-1547 du 18 novembre 2016, appelée " Loi de modernisation de la justice du XXIe siècle" (2018), et cet acte juridique établit une procédure spéciale pour le changement de la mention du sexe à l'état civil. Les dispositions de cette loi, ainsi que la législation en matière de droit civil et de procédure civile, ont établi les règles de base de la procédure de changement de sexe à l'état civil. Les dispositions législatives ont établi une procédure claire selon laquelle une personne ayant une identité trans doit rassembler un certain nombre de preuves confirmant qu'elle appartient au genre déclaré.

Il convient également de mentionner l'article 61-6 du code civil français, qui dispose que : "le fait de ne pas se soumettre à un traitement médical, à une intervention chirurgicale ou à une stérilisation ne peut être un motif de refus de la demande". En outre, le législateur a consacré la règle selon laquelle une personne doit présenter un certain nombre de documents relatifs à l'établissement de son identité, ainsi que l'autorisation de son conjoint/partenaire, de ses enfants majeurs/représentants légaux des enfants mineurs d'accepter le changement de nom(s) après le changement de sexe du demandeur dans son propre acte de naissance et son acte de mariage, le cas échéant.

En ce qui concerne la législation sur le genre en France, il convient de souligner que les normes visant à réglementer les droits des personnes transgenres ont déjà été introduites dans les actes juridiques existants.

Le législateur belge a trouvé une autre façon de mettre en œuvre les normes de genre. Il a été décidé de créer un acte juridique distinct qui réglementerait un certain nombre de questions préoccupant la société. Actuellement, la Belgique dispose de la Loi du 25 juin 2017 "Réformant des régimes relatifs aux personnes transgenres en ce

qui concerne la mention d'une modification de l'enregistrement du sexe dans les actes de l'état civil et ses effets" (2017). Cette loi concernait le refus de l'intervention chirurgicale obligatoire et de l'approbation psychiatrique pendant la procédure de changement de sexe, l'étendue des droits des mineurs a été modifiée et une procédure distincte de changement d'état civil a été créée pour eux.

Ainsi, l'état actuel de la mise en œuvre des normes de genre dans le monde s'est considérablement amélioré, et les personnes ayant une identité transgenre ont pu exercer leurs droits dans la plupart des pays européens, mais l'amélioration de ces dispositions législatives est toujours en cours.

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## MEDIATION AS AN EFFECTIVE METHOD TO TRANSFORM RELATIONSHIPS AND RESOLVE CONFLICT

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Mediation has become a well-respected method of conflict resolution. It is currently utilized in a variety of areas including family situations such as divorce and custody concerns, employer and employee disputes, and individual conflicts. Mediation occurs on a global level as well, including intervention with countries engaged in conflict with one another and countries with governments at odds with

their constituents. While this is one way mediation can be useful, true mediation not only resolves conflict, it teaches the parties how to better resolve their conflicts in the future. Mediation has the power to transform individuals and in so doing, transform their relationships in a positive way with lasting impact.

Appropriate for mediation. Many conflicts may improve with the help of mediation. One of the predictors of potential mediation success is the readiness of the clients to engage in the mediation process (Beer & Stief, 1997). A significant factor which makes a conflict ripe for mediation is the desire of the parties to preserve the relationship. These types of conflicts include custody issues, family disputes, and work disagreements. Mediation is considered appropriate when parties desire more than damages or equitable relief (Bennett & Hermann, 1996).

Not amenable to mediation. Certain relationships may not lend themselves to mediation. A conflict involving a power imbalance may prove difficult to mediate. A situation wherein one party is not interested in preserving the relationship may not be appropriate for mediation. Situations involving physical or sexual abuse may not lend themselves to mediation (Bennett & Hermann, 1996). Beer and Stief (1997) suggest conflict situations involving addictive behaviors and situations requiring a finding of fault and punishment as inappropriate for mediation.

A mediator is a person trained in conflict management who works with parties in conflict to manage a dispute resolution process (Stulberg & Love). Mediators have the opportunity to help parties reverse the negative spiral of conflict. They can take a situation which is negative, destructive, alienating, and demonizing and transform it so that it becomes positive, constructing, connecting and humanizing (Bush & Folger, 2005).

Role. Stulberg & Love (2009) stress the importance of neutrality when acting as a mediator. If a mediator seems to favor one party over the other it will be impossible to build the trusting relationship needed to resolve the conflict. The mediator's responsibility it to manage the mediation process, it is not to save, heal, or create an agreement (Domenici & Littlejohn, 2000). A successful mediator will aid the parties by forging common ground between them. The mediator is seen as a

catalyst or a coach who helps motivate and drive the process (Stulberg & Love, 2009).

Mediation can be voluntary or court ordered. Research has found that parties prefer mediation to litigation even if they are compelled to participate. It may be less satisfactory than voluntary mediation, however, parties still have a voice in the process (Melamed, 2006). The essential process of mediation consists of dialogue directly between the disputing parties, it is limited by the cardinal rules, it is about the issues to be resolved, and it is sustained long enough for the parties to find a solution. The cardinal rules are that neither party can walk away and solutions must benefit both parties (Dana, 2001).

The process begins by one or both of the parties contacting a mediator for dispute resolution. The mediator schedules a convenient time for all parties involved. It should be held at a neutral location with adequate physical comforts such as seating, bathrooms, and access to water and other drinks as needed. It must be private with no phone or walk-in interruptions (Dana, 2001).

During the process, the mediator must watch for a breakthrough, when the parties engage in conciliatory gestures such as apologizing, taking responsibility, self-disclosing, or expressing positive feeling toward the other party. The mediator should focus on those gestures to prompt the parties to shift toward an “us against the problem” attitude (Dana, 2001).

Mediation is not necessarily an orderly process. It is possible the problem defined by the resolution stage may look nothing like the problem identified during the opening statements. Once partners begin to move toward one another, it is time to have the parties begin brainstorming their options for resolution (Domenici & Littlejohn, 2000). The parties must be responsible for generating their own ideas. The opportunity to create their own agreement allows the parties to take responsibility for solving their problem. Parties who have ownership of the agreement are much more likely to feel positive about it and follow the agreement (Melamed, 2006).

Bush & Folger (2005) cite the short term benefit of mediation as solving the problem which brought the parties to mediation. The long term benefit of mediation

is the increased confidence parties gain in their own ability to solve future conflicts. Melamed (2006) emphasizes repairing the relationship, not solving the problem as the major benefit of mediation. Conflict management or mediation creates a situation or environment wherein parties can effectively disagree with one another and problem solve while learning new skills which they can use in future disagreements. Ury (1999) suggests prevention is the best medicine for conflict. Dana (2001) reflects that some people think peace involves ignoring problems and disagreements. Instead, true peace means dealing with issues constructively to benefit both parties. Well managed mediation allows parties the best opportunity to respond to current conflict and curtail conflict in the future.

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## QUESTIONS ACTUELLES LIEES A LA PREVENTION DES CRIMES DE GUERRE

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Le 24 février 2022, les forces armées de la Fédération de Russie ont procédé à une invasion totale de l'Ukraine, occupant une partie de son territoire. Par la suite, surtout après la désoccupation de certains territoires, les enquêtes sur les crimes de guerre commis par l'armée de la Fédération de Russie pendant l'occupation et les hostilités sur le territoire de l'Ukraine deviennent de plus en plus importantes.

Selon les données statiques du bureau du procureur général de l'Ukraine, depuis l'invasion complète de l'Ukraine par les forces armées russes jusqu'en 2024, les organes d'enquête préliminaire ont enregistré plus de 100 000 procédures pénales au motif de la commission d'un crime en vertu de l'article 438 du code pénal de l'Ukraine (ci-après - le CC de l'Ukraine).

L'Ukraine est le premier pays moderne à documenter les actes criminels des forces armées russes et à enquêter sur les crimes de guerre dans le contexte du conflit armé en cours.

Actuellement, l'Ukraine ne dispose pas d'une liste précise d'actes constituant des crimes de guerre au niveau législatif, mais ceux-ci sont définis dans les

dispositions des conventions de Genève et de leurs protocoles additionnels, qui ont été ratifiés par la Verkhovna Rada de l'Ukraine.

Pendant les hostilités, il est presque impossible de prendre des mesures visant à prévenir la criminalité parmi les membres des forces armées russes. Le seul moyen d'influencer les membres des forces armées russes est de mener des activités éducatives par le biais des médias. Cependant, en raison de l'impossibilité de publier officiellement des contenus sociaux dans les médias russes, des ressources non officielles (canaux de télégrammes, groupes dans les réseaux sociaux, etc.) sont utilisées à cette fin, ainsi que la diffusion périodique de documents pertinents dans les médias, malgré le consentement des propriétaires.

En outre, les représentants du Comité international de la Croix-Rouge, qui ont leur bureau sur le territoire de la Fédération de Russie, ont la possibilité de mener des activités explicatives et éducatives pour assurer le respect des Conventions de Genève et de leurs Protocoles additionnels.

Il est important de noter que le gouvernement ukrainien a lancé un programme de remise visant à réduire le nombre de membres des forces armées russes qui mènent une agression armée contre l'Ukraine. Un lien vers le site web contenant des instructions a été affiché à plusieurs reprises en tant que publicité pour le public russe. Le programme est actuellement en cours, mais son ampleur est très limitée.

Malheureusement, à l'heure actuelle, les autorités ukrainiennes ne disposent pas d'autres types de prévention de la criminalité dans ce domaine. L'un des principaux facteurs d'influence est l'inévitabilité d'une sanction pour l'infraction. Il est donc clair que, dans ce cas, la compétence des autorités nationales de l'Ukraine s'arrête à l'intérieur de ses frontières. Même si un verdict de culpabilité est prononcé par un tribunal ukrainien, il n'y a aucune possibilité de coopération internationale efficace et de localisation des auteurs et de leur détention dans la Fédération de Russie, puisque tous les liens diplomatiques ont été rompus en février 2022. Les appels aux organisations internationales n'ont pas non plus l'effet escompté. En effet, selon l'article 3 du statut de l'Organisation internationale de police criminelle - Interpol, les crimes à motivation militaire et politique ne relèvent pas de la compétence de

l'organisation. Aujourd'hui, il est urgent de modifier ledit statut, car le personnel militaire qui a commis des crimes de guerre sous forme de torture, de privation illégale de liberté, de viol, etc. devrait être tenu pour responsable, car ces crimes ne sont pas réellement de nature politique. De plus, ces actes sont criminalisés dans la plupart des pays du monde.

Un domaine d'activité innovant du système national d'application de la loi est la création par les services d'application de la loi de bases de données contenant tous les membres du personnel militaire des forces armées de la Fédération de Russie qui ont été identifiés (des auteurs directs aux hauts responsables politiques), l'utilisation active de l'intelligence artificielle pour systématiser et rechercher les données pertinentes, et les campagnes d'information sur le territoire de la Fédération de Russie auprès du personnel militaire.

Ce qui précède montre qu'aujourd'hui, malgré l'absence de réglementation législative claire et la question de l'administration de la justice pour les crimes de guerre liés à l'agression russe contre l'Ukraine aux niveaux national et international, la complexité du travail de prévention parmi les représentants des formations militaires de l'État agresseur, les services répressifs font tout leur possible pour traduire les criminels de guerre en justice.

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## NEW CHALLENGES FOR MILITANT DEMOCRACY IN THE 21ST CENTURY

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The general understanding of the term "militant democracy" is that a democratic regime takes preventive measures that are illiberal in nature, but pursue a specific goal of protecting democracy from destruction.

The concept of "armed democracy" is a strategy deemed necessary in the face of threats from authoritarian regimes, terrorist groups, and other opponents of democracy. The idea is that democracy should use its means and capabilities to defend itself against existing threats, without allowing its basic principles and values to be violated.

The effectiveness of a democracy that is able to defend itself preserves democratic regimes in many countries from potential destruction. The insidiousness of those methods, which the concept of "military democracy" opposes, lies in their formal legality.

The principles conveyed by "armed democracy" give a democratic regime a conditional weapon to legally defend itself against encroachments that are allegedly "legal" and "fair."

We should not forget that the law can be the basis of lawlessness, and such concepts as "rule of law" and "rule of legislation" are fundamentally different. And "militant democracy" helps to weaken such pressure of "phantom legality" from certain potential directions.

The concept was coined by the German lawyer Karl Löwenstahl, who emigrated to America because of the repressive measures of Nazi Germany. In the United States, in 1937, he published his seminal work Militant Democracy and Fundamental Rights, which became the basis for understanding the concept of militant democracy as such.

Describing the situation in Europe at the time, Löwenstahl says that fascism was no longer a private phenomenon in the history of a few states. It has become a comprehensive movement whose irresistible power is comparable to the heyday of European liberalism after the French Revolution. In one form or another, today it covers more territories and peoples in Europe than those who still remain committed to constitutional government. The model of political organization of fascism is represented by many facets. Italy, Germany, Turkey, and, in the event of Franco's victory, Spain, are ruled by one-party dictatorships (Karl Loewenstein, 1937).

The idea of militant democracy arose under the influence of political technologies used by the Nazis (fascists), who came to power legally and thus destroyed democracy in some countries. Later, the relevant ideologies were banned, both in Germany and in other countries. A similar situation occurred with communism, but these are separate issues of post-Soviet countries and Eastern Europe after the collapse of the Soviet Union.

The main thing to pay attention to here is that we already know these “enemies” very well. There is no need to prove to anyone that national socialist, fascist or communist ideologies are dangerous for a democratic society. In other words, militant democracy will be able to cope with these conventional “enemies” of democracy. An excellent analogy would be "immunity", which, once it sees a disease, will always remember it and be ready to destroy it in the future. This is exactly how

vaccination works. It is already well understood that ideologies such as Nazism are a missed but (I hope) learned lesson.

The question arises from a completely different perspective: What is the next threat that needs our attention and the attention of a militant democracy?

As long as any phenomenon exists, attempts to destroy it will not cease. Democracy, although an effective mechanism for organizing social relations, is still a vulnerable system that can and does from time to time succumb to destructive trends from both outside and inside the system itself. Such influences cannot be excluded from the historical flow and are therefore an axiom of the existence of a democratic regime.

For many years, liberal democracies have faced the existence of extremist and anti-systemic movements. These challenges have not disappeared, but the last 10-15 years have seen the rise of populist and illiberal parties. These parties have gained a significant number of votes in many democratic countries, as well as in referendums that have had a significant impact on global politics.

Today, populist and illiberal parties are often strong enough to play a significant role in governance, sometimes as coalition partners, sometimes dominating the government, or winning the presidency. Populist parties appeal to the "sovereign people" by contrasting them with an "evil" or indifferent elite.

While there is debate over whether populists are a "threat" or a "corrective mechanism" to democracy, their appeals to "the people" and democracy are often based on a majoritarian conception of democracy that devalues liberal institutions such as the courts and distrusts institutionalized opposition.

Although populism and illiberalism cannot be equated, there are many similarities in their policies, which tend to be predominantly illiberal (and not so much anti-democratic). This is especially evident in policies aimed at “minority rights, pluralism and the rule of law”. It is also important to note that populist (and other) autocrats often legitimize their rule by referring to electoral success (Angela K. Bourne and Bastiaan Rijpkema, 2022).

Populist and illiberal discourses that appeal to the ideal of "democracy" complicate normative discussions about the appropriateness of militant democracy, especially in its contemporary forms. The growing popularity of such parties in Europe and elsewhere is exacerbating the democratic dilemmas associated with militant democracy.

Restrictions on rights are becoming increasingly difficult to justify when more and more people consider the parties targeted by militant democracy to be legitimate representatives of their interests.

An important theoretical and empirical challenge is to assess the consequences and effectiveness of militant democracy. These questions have long been central to public debates about how to respond to modern democratic challenges, especially with regard to repressive measures such as political party bans or restrictions on hatred speech.

These concerns are becoming even more acute as new populist and illiberal opponents of democracy gain unprecedented support and even enter governments.

On the one hand, there is a concern that repressive measures may be counterproductive, increasing criticism of the government and strengthening or radicalizing targeted political actors. On the other hand, as an act of communication in the public sphere, cases of militant democracy can clarify standards of expected behaviour in democratic politics and encourage political moderation (W. Downs, 2012).

National socialism used to be a hidden threat. After a negative experience (World War II), it became clear to everyone that it was a negative phenomenon. At that time, perhaps because the concept of militant democracy had not been sufficiently developed, disseminated and implemented, the chance to preserve democracy in the heart of Europe was missed.

In many countries, it was too late. But one of the key features of a militant democracy is precisely the detection of a potential threat - to get ahead of its negative impact on the democratic regime. Now we have already freed ourselves from the influence of these totalitarian ideologies, but the question that has already been

highlighted remains open: What is the next challenge for us and for militant democracy?

What is the hidden Trojan Horse that can be welcomed by the general public now? What could potentially become the successor to the fascist experience?

Most likely, there is no unequivocal answer, and we must look at the individual experience of a particular country. In our case, a hidden threat for a long time was the narrative of rapprochement with the russian federation, a country that is the successor to the empire of enslavement, and a country that had already fought several wars at the beginning of the 21st century. People also voted for and supported certain political figures who promoted Ukraine's dependence on russia, even after the onset of 2014.

In our case, militant democracy did not have the desired effect. Yes, nowadays, the ban on “russian” and the disassociation from the invader are of unheard-of proportions, but, again recalling the signs of militant democracy, namely “preventive action”, we can say with certainty that our country could not avoid the negative influences that have resulted in the events of today.

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# THE TESTIMONY OF THE SUSPECT AS EVIDENCE IN COURT IN CRIMINAL PROCEEDINGS UNDER MARTIAL LAW

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The beginning of a full-scale military invasion of the Russian Federation on the territory of Ukraine, the intensification of hostilities, as well as the possibility of resource constraints necessary for conducting criminal proceedings, set the legislator a duty to determine the mechanisms for conducting criminal proceedings under the new conditions of enforcement.

At the same time, the amendments to the provisions of the Criminal Procedural Code of Ukraine (hereinafter referred – CPC) require a scientific review to determine their effectiveness, in particular in the use of the suspect's testimony as evidence in court in criminal proceedings under martial law.

The Law of Ukraine № 2201-IX of 14.04.2022 «On Amendments to the Criminal Procedural Code of Ukraine regarding the improvement of the procedure for conducting criminal proceedings under martial law» (Verkhovna Rada of Ukraine, 2022) amended the provision of Article 615 of the CPC with the second paragraph of part eleven, according to which the testimony obtained during the interrogation of the suspect, including simultaneous interrogation of two or more already interrogated persons, in criminal proceedings carried out under martial law, can be used as evidence in court only if a defender participated in such an interrogation, and the progress and results of the interrogation were recorded with the help of available technical means of video recording.

Firstly, it is considered necessary to note that the provisions of paragraph 2 of part 11 of Article 615 CPC (Verkhovna Rada of Ukraine, 2012) do not determine the procedure for interrogation of a suspect, the failure to comply with which will result in the recognition of evidence as inadmissible, but only establish the conditions for the use of suspect's testimony as evidence in court.

That is, in the case of interrogation of a suspect in criminal proceedings under martial law without involving a defender and recording the results of the interrogation using available technical means of video recording, the testimony obtained will not result in recognition of them as inadmissible, but, if necessary, the prosecution will not be able to use them as evidence in court, referring to the provisions of paragraph 2 of part 11 of Article 615 CPC.

The analysis of the possible cases of the application of the provisions of paragraph 2 of part 11 of Article 615 CPC, in connection with other provisions of the CPC, regarding the procedure for examination of evidences (the principle of the immediacy of the study of evidence by the court), led to a logical question of how the suspect's testimony, enshrined in the interrogation protocol, even if the defender is involved and the recording of the course of the interrogation using technical means of video recording, can be considered as admissible evidence to prove the guilt of the defendant in committing a criminal offence.

If the legislator predicted the possibility of the death of the suspect, in this case, criminal proceedings shall be closed on the basis of paragraph 5 of part 1 of Article 284 CPC, except in cases where the proceedings are necessary for the rehabilitation of the deceased, and therefore the suspect's testimony will not be used.

An exception to this situation is the presence of several suspects in criminal proceedings, the testimony of one of which, in case of death, the prosecution would like to use as evidence in court to prove the guilt of other defendants.

In other circumstances, the pre-trial investigation will be completed, the prosecution will refer to the court the indictment and the accused will be interrogated by the court in the manner prescribed by Article 351 of the CPC, and therefore the testimony that were given by him at the stage of pre-trial investigation will have no evidentiary value for proving the guilt of a defendant in committing a criminal offence.

Given the above, it is seen the need for legislative regulation of cases of possible use of the suspect's testimony as evidence in court in criminal proceedings under martial law.

In the aspects of possible cases, it is considered possible to use the suspect's testimony in criminal proceedings under martial law in the case of criminal proceedings «in absentia».

Taking into account the possibility of hiding the suspect/accused from the investigation and judicial bodies on the temporarily occupied territory of Ukraine, on the territory of the state recognized by the Verkhovna Rada of Ukraine as the aggressor state with the view of avoiding criminal liability and if he/she is announced in interstate or international wanted list, use of the suspect's testimony, if they have been submitted at the stage of pre-trial investigation may be considered as one of the grounds for applying the provisions of the paragraph 2 of part 11 of Article 615 CPC.

Therefore, the above-mentioned issues necessitate further scientific research in order to provide scientific recommendations on improving the provisions of criminal procedural legislation and eliminating gaps, particularly, in the question of the use of suspect's testimony as evidence in court in criminal proceedings under martial law, that will create more effective legal mechanisms for the implementation of criminal proceedings under martial law.

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# PROBLEMS OF REGULATION OF THE TAX SYSTEM OF UKRAINE IN THE CONDITIONS OF WAR

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During the years of independence, various mechanisms for ensuring taxation processes were put into practice, but today, considering unprecedented war, that came to our country, the tax system requires transformation.

The fiscal sector of Ukraine exists in a condition of permanent reforms caused by the search for an optimal structure of tax policy and a model for the organization of the tax system and the interaction of its subjects.

In my opinion, the effective mechanism for the functioning of the tax System in the conditions of crisis circumstances is various approaches to the formation and implementation of tax policy. Its transformations are attempts to adapt to changing economic conditions, primarily in terms of the legislative process and administration.

In addition, the transformation of the mechanism is a natural process of its adaptation to the goals set by the state for a certain period, as well as external conditions, which today are unfavorable for Ukraine due to the development of a full-scale war.

Since the introduction of martial law in Ukraine and until today, the main reasons for the transformation of the tax policy mechanism are the circumstances in which the state and business found themselves.

Analyzing the issues of the last year, it can be stated that all changes were implemented with the aim of protecting the national business sector, the domestic market, as well as supporting the national economy of Ukraine, in general.

The nature of transformations of the tax policy mechanism is shaped by the following factors:

1) every war is primarily a war of economics. So the national economic system and business sector must continue to function. Our country must adapt the tax burden

and tax rules to the requirements of the state of war, to promote the survival of business and its functioning in wartime conditions;

2) the simplification of the tax policy mechanism entails the simplification of the administration mechanism, in particular the costs of its implementation. Each opportunity to reduce state costs in wartime creates new sources for financing more priority needs;

3) optimization of the tax policy mechanism not only ensures business support, but also its development. There is a dependency – business development affects development state and development state affects business development. Thus, each of the parties to tax relations receives benefits and provides mutual support;

4) the need for the efficiency of budget process procedures, which served as an impetus for the Government to transfer basic budget resources from representative bodies (local councils) to their executive committees.

5) the need for anti-crisis measures aimed at liberalizing the tax system and politics. Only the easing of the administrative burden on taxpayers, the deregulation of business and the weakening of tax control helped business survive the shock. The timely response of the state to the needs of the implementation of urgent transformations of the company provided an opportunity for the business sector to focus on business issues, finding new opportunities for the restoration and adjustment of production, rather than searching for resources and means for calculating and paying taxes. Tax practice requires further transformations, but already aimed at restoring business activity and reducing the unemployment rate. Each change should bring the state closer to the post-crisis model of taxation.

The structure of public revenues in Ukraine was considerably different from the more developed EU countries. Comparing the shares of the main taxes in the total revenues in Ukraine against the shares in Austria and Germany, as examples of developed EU countries, and Czech Republic, Estonia and Slovenia, as the three most developed CESEE (Central, East and Southeast Europe) economies, one can see that Ukraine collects considerably less revenues through social security contributions (SSC) – their share in Ukraine was 18%, while in all the other five countries, it was

more than 30%. On the other hand, Ukraine collects more through value-added tax (VAT) – 27% of the total revenues, much more than any of the five other countries, and through excise duties – 9%, again more than any of the other five countries. Ukraine also collects a relatively large amount from corporate income tax (CIT) – 8% of the total revenues, with only Czech Republic collecting more. When it comes to personal income tax (PIT), Ukraine is in the middle – 17% of its public revenues come from PIT, which is less than in Austria, Germany and Estonia, but more than in Czech Republic and Slovenia. Thus, in general, the Ukrainian tax system was relying more on taxing goods and services (VAT and excise duties) than on taxing income (SSC and PIT).

The main direction for the post-war changes in the Ukrainian tax system should be towards increasing revenues. The Ukrainian public finance system required revenue improvements even prior to the invasion. Government revenues in Ukraine amounted to approximately 37% of GDP, which was among the lower shares in the wider CESEE region, was inadequate for providing top-quality public services, and led to constant public deficits and debt build-up. This issue will be compounded during the reconstruction period, as public expenditure needs will increase by around 10% of GDP, as elaborated previously in this chapter. Although the primary goal of tax reform should be to increase revenues, it is not advisable to implement drastic changes immediately. In the early years of the reconstruction phase, a significant portion of the financing needs will be met by international donors. Therefore, domestic revenues need not necessarily be raised in the immediate post-war period. Additionally, it will take some time for the economy to recover from the devastating effects of the war, as many private firms and public corporations' assets have been destroyed, and many people have left the country. However, international donor funding is not a sustainable long-term solution, and when it starts to decline, mobilising domestic revenues will be necessary

In addition to the suggested changes in tax policies, improving tax compliance and strengthening the capacity of the tax administration are also crucial for maximising revenue collection. Simplification and digitalisation of tax compliance

can reduce the burden on taxpayers and improve their compliance behaviour. Tax administration procedures must also be streamlined and be more efficient to reduce bureaucracy and unnecessary delays. based on the above, significant improvements in the capacity and technology of the tax administration are required to achieve these goals. Implementing modern IT systems, investing in training and tax administration staff development will get the managing of taxpayer data to high level. It will also help to identify non-compliance and implement effective enforcement actions. Additionally, improving transparency in tax administration by publishing tax data can increase accountability and public trust.

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# CERTAIN FINANCIAL AND LEGAL ASPECTS CONCERNING CONFISCATED OR ALIENATED ASSETS AS DISCUSSED BY CONTEMPORARY FOREIGN AUTHORS

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The third year witnesses the full-scale invasion of the territory of Ukraine by the Russian Federation. The aggressor state continues to sow chaos both regionally and globally within Ukraine. Consequently, in his address at a Government meeting, the Prime Minister of Ukraine, D.A. Shmyhal stated that as of the beginning of 2023, the total damage inflicted upon Ukraine amounts to approximately $700 billion. The current year's state budget allocates 35.5 billion hryvnias to the Fund for Elimination of Consequences of Armed Aggression. This includes construction and repair works on public buildings and critical infrastructure facilities. (Ukrainian Government portal, 2023).

Undoubtedly, considering the ongoing armed conflict and the uncertainty of its resolution, it is challenging to assert that this sum will not increase. There has been active discourse both domestically and within the global political-legal community regarding the potential transfer of frozen assets of the Russian Federation to Ukraine as a form of reparation for the damages inflicted due to the armed aggression by the aggressor state.

Among certain high-ranking officials worldwide, there is a belief that establishing a precedent of transferring frozen assets would deter other countries from depositing their funds in the Federal Reserve Bank of New York or holding them in dollars.

As articulated in the article by Nobel laureate in Economics, Joseph Stiglitz, on Project Syndicate, the concern that other governments may be wary of keeping their funds in the United States for fear of future confiscation misses some key points. Seizing Russia's frozen assets will not affect the assets of other countries and will not change the incentives of governments that are not planning a major war.

Furthermore, by not confiscating these funds, inaction on this issue could signal that governments waging brutal wars of aggression can violate international law while benefiting from it to avoid the consequences of their actions. Instead, G7 leaders should send a clear message: no country can have it both ways. By deterring other perpetrators from violating international law, such confiscations can act as a peacebuilding measure.

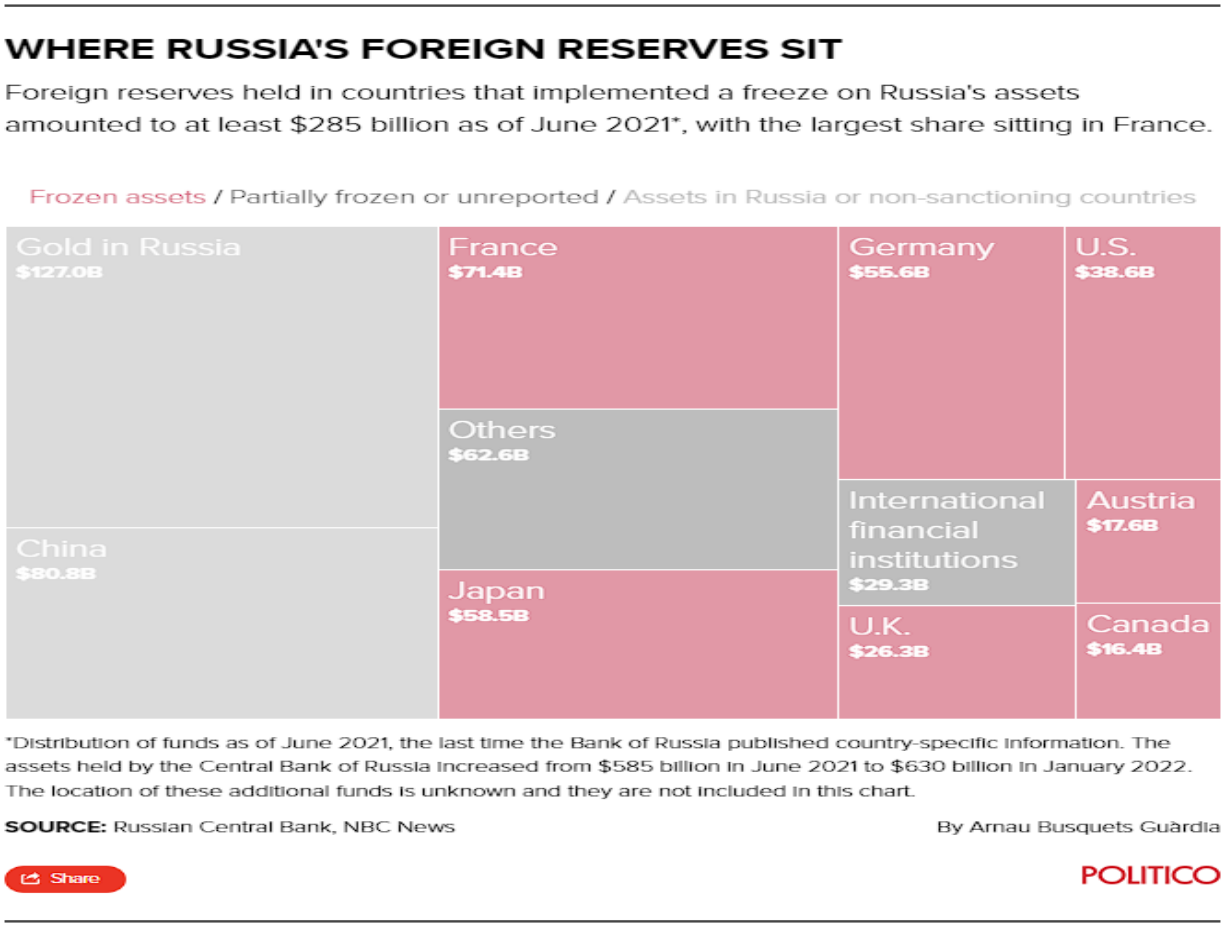
Moreover, while European and Japanese institutions might benefit if other potential rogue states decided not to keep deposits in the United States, the financial impact would be negligible. In fact, many economists argue that such capital inflows are a cost, not a benefit. Because they lead to currency appreciation, it is argued that they make it more difficult to export goods and compete with imports, thereby destroying jobs.

Moreover, while European and Japanese institutions might benefit if other potential rogue countries decided not to keep deposits in the United States, the financial impact would be negligible. In fact, many economists argue that such capital inflows are a cost, not a benefit. Since they lead to an appreciation of the currency, it is argued that they make it more difficult to export goods and compete with imports, thereby destroying jobs.

It is true that some financiers may face losses. But most of the funds held in the US are simply reserves deposited with the Fed, which do not directly benefit Wall Street. The same is true of Euroclear, the Belgian financial institution where the majority of Russian assets are held.

Another, related argument against asset seizure is that it can be carried out only once, because once it’s done, no country would leave its reserves or other assets in the US or the EU. (Stiglitz & Kosenko, 2024)

According to the Russian central bank, as of June 2021, the seven countries participating in the sanctions against Russia held almost half of all Russian foreign exchange reserves of $585 billion. Since then, foreign exchange reserves have grown to $640 billion. While this is almost certainly less than the required amount, it will




cover a significant portion of it.

According to this, the United States, the United Kingdom, the EU, Canada, and Japan would have to organize the seizure and confiscation of almost $300 billion stored on their territories.

Robert Litan, a senior fellow at the Brookings Institution's Economic Research Program, notes that the money is there, but national legislation will require allowing central banks to use the money, which is currently frozen. He refers to a 2005 UN resolution that states that "States should endeavor to establish national programs of reparation and other assistance to victims in the event that the parties responsible for

the harm are unable or unwilling to fulfill their obligations." According to Litan, "This establishes the principle that if an aggressor state, like Russia, is unable or unwilling to provide reparations, then there may be some other mechanism."(Tamma, 2022)

It is also worth noting that, following the decision of the EU Permanent Representatives, at the end of January 2024, the Council of the European Union adopted rules that define the legal status of excess profits from immobilized assets of the Russian Federation in the territory of the association, as well as oblige them to be kept in separate accounts.

"The Council has decided, in particular, that central securities depositories holding assets of the Central Bank of the Russian Federation worth more than EUR 1 million should separately account for extraordinary cash balances accumulated as a result of EU restrictive measures and separately keep the corresponding income," the EU Council said in a statement. (Council of the EU Press portal, 2024)

Depositories cannot dispose of these profits from rosaceous assets, the EU Council clarifies. However, supervisory authorities in each country can make individual decisions on "the release of a share of this net profit" at the request of the depositary.

"This decision paves the way for the Council to decide on a possible financial contribution to the EU budget from these net profits to support Ukraine and its recovery and reconstruction at a later stage," the EU Council emphasizes. (Council of the EU Press portal, 2024) The question arises as to whether the same measures could be taken with respect to the assets themselves as well as the profits from them.

The alleged negative impact of the seizure of Russian assets on the willingness of other countries to place funds in the United States and other countries, if it were real, would have become apparent when these funds were frozen in early 2022. It is noteworthy that there was no capital outflow from the US or other countries. This is partly because there are few safe alternatives to the established financial system.

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## INTERCULTURAL COMMUNICATION AS A LINK BETWEEN UKRAINE AND OTHER COUNTRIES IN THE CONTEXT OF INTERNATIONAL HUMANITARIAN AID

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Intercultural communication serves as a pivotal conduit fostering connections between Ukraine and other nations, particularly within the framework of international humanitarian aid. As Ukraine navigates its place in the global community, the exchange of ideas, values, and assistance becomes increasingly vital. In this context, intercultural communication emerges not only as a means of facilitating understanding but also as a platform for collaboration and support amidst diverse cultural landscapes. Exploring the dynamics of intercultural communication within the realm of humanitarian aid offers insights into how Ukraine engages with the world and how it contributes to global initiatives aimed at alleviating human suffering and promoting solidarity across borders.

With the increasing globalization, expansion of international contacts, and overall societal internationalization, the nature of communication has undergone significant changes. Establishing business and friendly contacts with representatives of other countries entails proficiency in foreign languages. However, this is not enough, as a significant barrier to communication with foreigners is the lack of knowledge about their ethnic and cultural characteristics and non-verbal communication means (Halych, 2014).

Intercultural communication serves as a critical link between Ukraine and other countries, particularly within the context of international humanitarian aid. In the contemporary global landscape, where crises and challenges transcend borders, effective communication channels are imperative for fostering understanding, cooperation, and mutual assistance among nations.

Ukraine, like many other countries, faces a myriad of humanitarian issues ranging from natural disasters to armed conflicts and socio-economic hardships. In response to these challenges, international humanitarian aid plays a pivotal role in providing relief, support, and rebuilding efforts. However, the success of such endeavors heavily relies on efficient intercultural communication practices.

In intercultural communication, communication plays a primary role - dialogue or polylogue of cultures. Cultural dialogue is the interaction of cultures in the process of intercultural communication, mastery of foreign languages, and so on. Cultural code is the way in which a particular culture organizes, categorizes, structures, and evaluates the world surrounding each individual belonging to a certain national community. Intercultural communication also includes such basic elements as "ethnic group," "nation," and "mentality" - ethnologically identical concepts that define the biological origin of a group of people, but in the socio-political aspect, they are not identical (Bakhov, 2012).

Intercultural communication encompasses the exchange of ideas, values, and perspectives among individuals from diverse cultural backgrounds. In the context of humanitarian aid, it serves as a bridge between Ukraine and other countries, facilitating collaboration, coordination, and the effective implementation of relief

efforts. Through intercultural dialogue, stakeholders from different nations can share resources, expertise, and best practices to address pressing humanitarian needs more comprehensively and efficiently.

Moreover, intercultural communication enables mutual respect, empathy, and cultural sensitivity, essential components for building trust and fostering positive relationships among diverse stakeholders involved in humanitarian endeavors. By recognizing and valuing cultural differences, Ukraine and other countries can navigate through challenges more effectively, ensuring that aid efforts are tailored to meet the unique needs and preferences of affected populations.

Internationalization and globalization in society require establishing contacts on an international level. As known, the nature of interaction among representatives of one culture is determined by their social background, upbringing, education, sphere of professional activity, individual perception of the world. Sometimes, this leads to certain difficulties during communication. Consequently, the necessity of studying verbal communication comes to the forefront. A person learns a foreign language to be able to communicate with it, but communication is possible only based on a common code. Language acts as a bridge between people, yet under conditions of improper intercultural communication, it can become a barrier leading to cultural shock (Palko, 2019).

Furthermore, intercultural communication promotes transparency, accountability, and inclusivity in humanitarian operations. By fostering open dialogue and mutual understanding, it helps mitigate misunderstandings, conflicts, and misinterpretations that may arise due to cultural differences or language barriers.

In conclusion, intercultural communication serves as a linchpin in the realm of international humanitarian aid, connecting Ukraine with other nations to address shared challenges and promote collective well-being. As Ukraine continues to navigate its role in the global humanitarian landscape, fostering effective intercultural communication practices will be instrumental in building stronger partnerships, enhancing collaboration, and advancing sustainable solutions to humanitarian crises worldwide.

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## DIGITAL FUTURE OF JUSTICE: BETWEEN INNOVATION AND CHALLENGES

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In the rapidly evolving modern world, the digitalization of the judiciary becomes a crucial element in supporting the principles of democracy and meeting contemporary requirements. European countries, recognizing the importance of this process, are actively integrating digital technologies into their judicial systems, striving to make them more accessible, efficient, and fair for every citizen. Initiatives such as e-CODEX in the European Union, aimed at creating computerized systems for communication in cross-border civil and criminal cases, are evidence of European countries' commitment to the digital transformation of justice (European Commission).

In a world where technologies change everything from how we communicate to how we purchase products, the judicial system is not left behind in

this transformation. The digitalization of the judiciary is not just a trendy trend but a necessity that opens new horizons for the efficiency, accessibility, and transparency of justice. However, this path forward is not without challenges.

Starting with the positives: digital initiatives such as electronic document management, video conferencing, and electronic registries promise revolutionary changes. They can make the judicial process faster, more accessible, and more understandable to the general public. Digitalization allows citizens to more easily access judicial services, reducing the time and financial costs associated with court proceedings (Rastoropov S. V., Azarkhin A., & Barchukov V. K., 2021).

On the other hand, the transition to digital justice is not an easy task. One of the main stumbling blocks is technical limitations and uneven access to the internet. Not every corner of the country has stable internet or the necessary equipment for participation in online court sessions. This can complicate or even make it impossible to access fair trial for certain population groups (Rastoropov S. V., Azarkhin A., & Barchukov V. K., 2021).

Data security and privacy protection pose another significant challenge. On one hand, digitalization promises greater transparency and efficiency. On the other, there is a risk of abuse, leakage of confidential information, and cyber-attacks. Resistance to change from judges and law enforcement officers, who are accustomed to traditional methods of work, is also a significant barrier to digitalization (Maroun Jneid, Imad Saleh, Rania Fakhoury, 2019).

To ensure the digitalization of the judiciary achieves its goals, it is essential to actively work towards innovation while simultaneously addressing identified shortcomings and obstacles.

The first and foremost step is enhancing technical equipment and ensuring access to stable internet across all regions. This will make digital judicial services accessible to a wider range of citizens. Moreover, implementing reliable data protection systems to ensure confidentiality and security of information in the digital space is crucial (Rastoropov, S. V., Azarkhin, A., & Barchukov, V. K., 2021).

The European Investment Bank highlights the importance of securing necessary investments in digital infrastructure, which is critical for supporting the digitalization process in Europe. Efficient use of resources and understanding the needs of the judicial system can significantly improve the quality and accessibility of justice (Désirée Rückert and Christoph Weiss, 2021).

Educational programs and training for judges, prosecutors, and other participants in the judicial system are another key element of success. It is necessary to develop and conduct training courses that will help them master new technologies and adapt to changes. This will reduce resistance to changes and facilitate a smoother transition to digital justice (Maroun Jneid, Imad Saleh, Rania Fakhoury, 2019). Special attention should be paid to training on the use of digital tools and platforms, which can support the effective operation of the judicial system and ensure a high level of data protection (Dr. András Csúri, 2022).

Conducting pilot projects and assessing their effectiveness will allow for a better understanding of the potential challenges and benefits of digitalizing the judiciary. This will aid in refining technologies and working methods, as well as identifying the most effective practices for further national-level implementation (Renáta Šínová, Klára Hamuľáková, 2024).

The integration of innovative technologies, such as artificial intelligence and blockchain, can provide significant benefits for the judiciary by enhancing its transparency, efficiency, and security. However, it is crucial to ensure that such technologies are utilized with respect for the fundamental rights and freedoms of individuals.

Developing "My e-Justice space" could be a pivotal step in ensuring easy access to national electronic services for citizens and businesses. Introducing such a unified digital entry point can simplify the interaction between users and the judicial system, providing access to a broad array of online services and information, which will contribute to increased transparency and trust in the judicial system.

The digitalization process of the judiciary in European countries requires significant efforts and investments, but the benefits it offers are undoubtedly worth these costs. Enhancing infrastructure, professional education, integrating innovative technologies, and ensuring accessibility and inclusiveness are key aspects that will help achieve success in the digital transformation of the judicial system. The European Union and its member states have shown considerable progress in this direction; however, to fully harness the potential of digital technologies in justice, work must continue, adapting to new challenges and opportunities.

Digitalization of the judiciary not only improves the accessibility and efficiency of justice but also plays a crucial role in strengthening democracy and human rights, making justice more transparent and accessible to all citizens. Despite existing challenges, the European experience shows ways to realize these ideals through innovation and technological progress.

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## THEORETICAL INSIGHT ON SANCTIONING FOREIGN LEGAL ENTITIES UNDER UKRAINE'S MARTIAL LAW

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Pursuant to Article 1 of the Law of Ukraine "On Sanctions", to protect the national interests, national security, sovereignty and territorial integrity of Ukraine,to counteract terrorist activity, and to prevent violation and restore violated rights, freedoms and lawful interests of the citizens of Ukraine, society and the state, special economic and other restrictive measures (hereinafter referred to as the sanctions) may be imposed. Sanctions may be imposed by Ukraine against a foreign state, a foreign legal entity, a legal entity controlled by a foreign legal entity or a nonresident

individual, foreigners, stateless persons, and entities engaged in terrorist activities (On Sanctions, Parliament of Ukraine, n.d.).

According to the data published on the website of the WAR & SANCTIONS project, which is supported by the Ministry of Foreign Affairs of Ukraine and the National Agency on Corruption Prevention and whose analytical activities draw much from the work of the International Working Group on Russian Sanctions against the Russian Federation, as of February 23, 2024 (since the beginning of

martial law), Ukraine has imposed sanctions on 5492 legal entities (Register of sanctions, NAZK, n.d.).

According to Part 1 of Article 3 of the Law of Ukraine "On Sanctions", the grounds for the imposition of sanctions shall include:

1) actions of a foreign state, a foreign legal entity or individual, other entities that create real and/or potential threats to national interests, national security, sovereignty and territorial integrity of Ukraine, promote terrorist activities and/or violate human and civil rights and freedoms, the interests of society and the state, result in the occupation of territory, expropriation or restriction of property rights, causing property losses, creating obstacles to sustainable economic development and exercise by Ukrainian citizens of their rights and freedoms to the full extent;

2) resolutions of the United Nations General Assembly and Security Council;

3) decisions and regulations of the Council of the European Union;

4) facts of violation of the Universal Declaration of Human Rights and the Charter of the United Nations.

The types of economic sanctions which may be applied to foreign legal entities are listed in Article 4 of the Law of Ukraine "On Sanctions" (On Sanctions, Parliament of Ukraine, n.d.).

The application of sanctions to legal entities of the Russian Federation does not require additional analysis or justification, and is perceived by both Ukraine and the international community as a necessary protective mechanism, since no legal

entity (its participants or beneficiaries) should be able to take advantage of the consequences of armed aggression.

The situation with legal entities of the Republic of Belarus is somewhat different. Imposing sanctions on them requires a more detailed legal analysis .

On January 12, 2024, according to the information published on the official website of the Embassy of Ukraine in the Republic of Belarus, it was reported that on February 24, 2022, the Russian Federation launched a treacherous aggression against Ukraine, utilizing the territory, airspace and military infrastructure of the Republic of Belarus to conduct a large-scale offensive operation. Throughout 2022, the Republic of Belarus continued to provide territory, airspace and infrastructure for Russian aviation to carry out missile, artillery and air strikes on the territory of Ukraine (Politychni vidnosyny mizh Ukrainoiu ta Respublikoiu Bilorus, Posolstvo Ukrainy v Respublitsi Bilorus, n.d.).

In accordance with international law, in particular Article 2 (4) of the Charter ofthe United Nations, Section I of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations adopted, by UN General Assembly Resolution 2625

(XXV) on October 24, 1970, Article 5 of Resolution 3314 (XXIX) of December 14,1974, on the “Definition of Aggression”, Articles 5, 6, 7, 8 and 8 bis of the Statute of the International Criminal Court, the armed aggression of the Russian Federation

against Ukraine is a grave international crime and its commission entails international legal responsibility (Pro Zaiavu Verkhovnoi Rady Ukrainy, Parliament of Ukraine, n.d.).

In addition to the general definition of aggression, Article 3, paragraph f, of UN General Assembly Resolution 3314 contains a list of actions that, regardless of the declaration of war, qualify as an act of aggression, in particular, the action of a statethat allows its territory, which it has made available to another state, to be used by that other state to commit an act of aggression against a third state (UN General Assembly Resolutions Tables: 29th Session (1974-1975).

Thus, there are legal grounds to consider the Republic of Belarus an aggressor state.

Pursuant to Article 64 of the Constitution of Ukraine, under the conditions of martial law or a state of emergency, specific restrictions on rights and freedoms may be established with the indication of the period of effect for such restrictions. Article 19 of the Constitution of Ukraine stipulates that government authorities and local government and their officials shall be obliged to act only on the grounds, within the powers, and in the manner envisaged by the Constitution and the laws of Ukraine (The Constitution of Ukraine, Parliament of Ukraine, n.d.). Pursuant to Article 5(5) of the Law of Ukraine "On Sanctions", a decision on the imposition of sanctions must contain a time limit for their imposition, except in case of sanctions that result in the termination of rights and other sanctions that, in substance, may not be applied temporarily (On Sanctions, Parliament of Ukraine, n.d.). As a rule, sanctions against legal entities are applied for a 10-year period. Thus, sanctions against foreign legal entitiesare imposed by public authorities within their powers and on the basis of the Law ofUkraine "On Sanctions".

In analyzing the legal nature of sanctions in terms of the timing of their application relative to contractual obligations, it is important to note that in this case the state actually applies a moratorium, that is, a postponement of the fulfillment of established obligations for a certain period (10 years) due to military aggression and the legal regime of martial law. In its Resolution dated May 30, 2023 in case No. 925/1248/21, the Supreme Court clarified that the moratorium imposes a ban on a specifically defined list of actions among parties to legal relations, establishes a particular legal regime for these relations and affects the flow of monetary and other

liabilities. Since the introduction of the moratorium, the subjective right of creditors(claimants) has been subject to restrictions on the ability to exercise their right to claim against the obligated party, including by seeking judicial protection. Furthermore, although the moratorium does not terminate the subjective right, sucha right cannot be realized by way of execution for the duration of the moratorium (Yedynyi derzhavnyi reiestr sudovykh rishen, n.d.).

According to established case law of the European Court of Human Rights, the right to property is not absolute and may be subject to restrictions. Therefore, interference with the property rights of foreign legal entities by imposing sanctions on them is lawful and pursues a legitimate objective.

It is pertinent to note that property not only guarantees the rights of its owners, but also entails responsibility; this is addressed in Articles 13 and 41 of the Constitution of Ukraine. According to these articles, property shall not be used to the detriment of the person. The use of property shall not prejudice the rights, freedoms, and dignity of citizens, the interests of society (The Constitution of Ukraine, Parliament of Ukraine, n.d.). Furthermore, it is imperative that the interpretation and application of sources of civil law are always grounded in the principles of fairness, good faith and reasonableness. In conditions of martial law in Ukraine, due to the act of aggression that inflicts harm on individuals, the rights, freedoms, and dignity of citizens, and the interests of society, the application of sanctions to foreign legal entities, which are somehow involved inthe aggression, is based on the principles of justice, good faith, and reasonableness.

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