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НАЦІОНАЛЬНА АКАДЕМІЯ ВНУТРІШНІХ СПРАВ

ЮРИДИЧНИЙ ЧАСОПИС

НАЦІОНАЛЬНОЇ АКАДЕМІЇ ВНУТРІШНІХ СПРАВ

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Human freedom in the legal dimension

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Abstract
In this article, the authors examine the freedom of a person as a subject of law, comparing it with the freedom of an individual, which is regulated by moral imperatives. They analyze the various components of the personality structure – volitional, rational and valuable. The relationship between the concepts of "freedom" and "right" is highlighted, the connection between legal responsibility and freedom is traced. The role of individual legal awareness in ensuring human freedom is determined. The relevance of the article is determined by the need to justify ways of ensuring freedom in the state, creating mechanisms for overcoming contradictions between freedom and necessity, freedom and equality. For this, it is necessary to examine freedom from the point of view of law. The purpose of the study is to clarify the status of freedom as a legal category, to specify its essence, place and meaning in legal science, to characterize the current trends in the development of this phenomenon. The methodological basis of the article consists of dialectical, phenomenological and synergistic approaches, as well as the following methods: formal-dogmatic, comparison, formal-logical, formal-legal, systemic and structural-functional. The authors of the article reached the following conclusions: individual freedom differs from human freedom, which is impossible without law, without a legislative form of its implementation. From the point of view of law, freedom is the possibility of certain human behavior legally enshrined in normative acts. The law is an effective tool that helps the individual (community, society in general) achieve a state of true freedom. Human freedom can only be realized through legal equality. Unlimited freedom turns into arbitrariness and leads to totalitarianism. Freedom presupposes the responsibility of a person for his actions. There is a close connection between freedom, law, equality, justice, legal consciousness and legal responsibility. The scientific

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novelty of the article is determined by the conclusions, which consist in the development of a holistic view of the place and role of human freedom in the system of legal categories and the role of law in ensuring it

Keywords:
equality; justice; legal consciousness; legal responsibility; individual; subject

Introduction

One of the fundamental scientific categories is freedom – the most difficult term for understanding and practical implementation in public relations, legal norms, political institutions, and legal procedures. The original idea of freedom was transferred from the sphere of ideas to real life precisely through law. Humanity has not yet invented any other form of being and expression of freedom in public life other than legal life. Freedom is impossible where there are no legal restrictions, where there are no clearly defined boundaries of legal personality of participants in legal relations.

Legal freedom can be considered as free will, i.e., the ability to choose options for one's behaviour. It is also existential freedom, which is the primary condition for the existence of the subject of law. Finally, legal freedom appears as a condition and means for the development and improvement of the human personality and society. The question of the legal form of freedom is important now, when there are profound changes in the entire complex of social relations related to the development of an open-type society and changes in the forms of human activity, specifically, awareness of various needs of a person and society, recognition of legitimate interests that were not previously such.

According to Part 1 of Art. 5 of the "European Convention on Human Rights"[1], everyone is entitled to freedom and personal integrity. This is one of the fundamental human rights, which means the ability to do anything that does not violate the rights of other people and society as a whole. The right to freedom includes a set of specific powers that are realized in the sphere of personal interests (freedom of worldview and religion, freedom of movement, etc.), the political sphere (freedom of speech, freedom of peaceful assembly, etc.), the socio-economic sphere (freedom of work, freedom of creativity). Personal inviolability implies the inadmissibility of any external interference in the sphere of individual human life and covers physical and mental inviolability.

The level of development of freedom in society, its adequate perception by the population, is determined not only by the consolidation of human rights and freedoms in the regulations of the state, but also by the legal awareness of the population, which can understand and properly respond to certain restrictions on their freedom caused by the need to ensure freedom for other participants in legal relations and implement the principle of legal equality. Freedom is always linked to legal equality. The implementation of the proclaimed freedoms also depends on the effectiveness of legislation, the behaviour of officials and the success of the state in the fight against corruption.

The study of freedom as a legal category today is conditioned upon the solution of several issues in Ukraine related to the practical implementation of the principles of the rule of law, civil society, the establishment of humanistic values and democracy; appeal to the individual as the highest value in the state, concretization of the status of a person, expansion of their rights and freedoms. Legal science must justify both mechanisms for ensuring freedom in the state and ways to overcome the contradictions between freedom and necessity, freedom and equality, which is possible based on awareness of the value of the human person and their coordination with the factors of stability of the state that ensure its sustainable development. Given the above, the subject under study is important and relevant.

The philosophical understanding of freedom, its interpretation in a particular era, the influence of freedom on a person, the relationship between freedom and responsibility, the essence of arbitrariness, the influence of arbitrary power on society and the state are also investigated in the studies of modern scientists. Z. Stezhko, N. Hrishchenko, V. Kultenko, I. Savitska, A. Suprun, N. Rusko carried out a socio-philosophical analysis of freedom and arbitrariness (2021), the purpose of which is the formation of a rational civic position and self-determination as a result of a person's awareness of responsibility for their decision. G. Gunatilleke (2021) quite thoroughly defined the grounds for restricting freedom of speech. The analysis of the problem of the struggle for the rule of law in the presence of arbitrary power was highlighted by K. Thompson (2019).

The studies of these authors are a considerable contribution to the research on freedom and substantiation of measures to ensure it. However, the authors ignored the problem of human freedom from the standpoint of law, determining the legal conditions for the existence of freedom, the ratio of freedom and inequality, and

[1]Convention on the Protection of Human Rights and Fundamental Freedoms (with Protocols) (European Convention on Human Rights). (November, 1950). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004#Text.

ensuring human rights in its relations with the state. Such study can be useful for both legal science and political and legal practices. The authors of the present paper consider these problems as their task.

The purpose of this study was to cover the specific properties of freedom as a legal category, clarify its essence and significance for legal science and a human, and characterize the modern transformations of this phenomenon.

The theoretical provisions and conclusions formulated in the paper develop and complement several sections of the general theory of law and the state. The results of this study will contribute to a more complete legislative consolidation of human and civil rights and freedoms and their proper implementation. This is the practical significance of this paper.

Literature Review

Legal science usually does not investigate the problems of freedom comprehensively but focuses only on some essential aspects of this phenomenon, considering them from the standpoint of law. The Western understanding of freedom, which gained popularity in the 17th-19th centuries, associated it with individualism, the priority of the individual, its independence from society and the state, which means independence from legislative regulation. Individualism proclaimed the individual a noteworthy value from the perspective of politics, economics, and morality. The English philosopher J. Locke (1823) considered freedom as the basis of everything else, and the natural state of man, in his opinion, is precisely the state of complete freedom. An outstanding thinker of the Enlightenment, the German philosopher I. Kant (1784) substantiated freedom as a natural right and the highest good of man, which the state must protect. In his opinion, it is possible to achieve the common good only with the construction of a state governed by the rule of law and civil society, i.e., a state in which the greatest freedom of each member of society is ensured, provided that it is compatible with the freedom of all others. For I. Kant (1784), personal freedom is both a purpose and a means of achieving a general legal state. At the same time, he considers freedom as a driving force for the development of private property relations, the formation of the state and the formation of public legislation. Freedom is also the independence of the will from the compulsion of personal emotionality, it is associated with the responsibility of a person, their right to dispose of their life, foremost it is the freedom of reason.

The study of this issue has not lost its relevance to this day. The problems of freedom and responsibility were considered by S.R. Bhatt (2018), who argues that equality of opportunity and distributive justice are the basis for providing a solid foundation for freedom and social solidarity. J. Portier (2016) considered the issue of the exercise of freedom in the case law of the European Court of Human Rights. F. Lovett (2012) investigated the essence of arbitrary power. The study of the interdisciplinary aspect of ways to protect human freedom using the dialectical method is relevant (Robson, 2021). Research on human freedom in the context of social justice, specifically through the lens of the phenomenon of poverty, various political, economic, and social aspects of human life (Canaval, 2021), is noteworthy.

The studies of these authors are a considerable contribution to the research on freedom and substantiation of measures to ensure it. However, the authors ignored the problem of human freedom from the standpoint of law, determining the legal conditions for the existence of freedom, the ratio of freedom and inequality, and ensuring human rights in its relations with the state. Such study can be useful for both legal science and political and legal practices. The authors of the present paper consider these problems as their task.

Materials and Methods

The methodology of this study is based on the dialectical approach, which examines various aspects of human freedom and considers it from the standpoint of comprehensive links with other political and legal phenomena. The causes and consequences of processes affecting individual freedom and leading to its restriction are established, and the adverse consequences of violating human freedom for themselves, society, and the state are traced. The dialectical approach helped determine the specific features of individual freedom and the prospects for its development in the future.

A phenomenological approach was also used to consider the theoretical legal foundations of individual freedom through the perception of the subject who enjoys this freedom or strives for it, and the subjective attitude of the individual towards the violation and restriction of their freedoms was analysed. The phenomenological approach has also proved useful in assessing the consequences of violating human freedom.

Using a synergistic approach, random factors influencing the possibility of violation of individual freedom and the assessment of these violations by the individual themselves are considered and established. A synergistic approach provided insight into the complexity of social relations that contribute to the violation of freedom. This approach allows considering legal relations as a component of the system of public relations and determining the possibilities of exercising freedom in these relations.

Using the formal dogmatic method, the concepts of "law", "freedom", and a number of other terms and provisions were formulated.

The comparison method was used to compare freedom with law, equality, and necessity, in the study of the levels of manifestation of freedom.

The formal-logical method allowed investigating the individual freedom as the independence of an individual (having certain desires) from any external influences. Among the techniques of the formal-logical method,

analysis and synthesis are mainly used, which allows comparing different interpretations of freedom, as well as determining the scope of its implementation. Other techniques were also used: induction and deduction, analogy, which contributed to the establishment of logical contradictions in the structure of numerous judgments.

The formal legal method was also used to investigate the legal categories of political and legal reality. Thus, new knowledge about the individual's freedom was obtained.

The use of the system method turned out to be useful for clarifying the specific features of the implementation of individual freedom in the state. Therefore, the study established the significance of certain elements for the entire system, specifically the importance of security for the system of human and citizen rights and freedoms. Thanks to the systematic method, which involves considering a set of objective and subjective factors, the boundaries of knowledge for the phenomenon of law and human freedom were expanded.

The structural and functional method helped determine the role of each of the phenomena under study. Freedom and law were considered because of the functions they perform in society. Several techniques of this method were applied, namely: structural analysis (to clarify the components of the phenomena under study); functional analysis (to determine the functions that freedom and law perform in society); complex analysis (to investigate law and freedom in interaction and interdependence).

Results and Discussion

Among the fundamental legal categories, freedom is not only the most difficult term for understanding and practical implementation in regulations, institutions, procedures, and public relations, but also the most important for the individual and society. The evolution of this term has a long history (Ilievsky & Ilik, 2020). Research on the problems of freedom, including individual freedom, has long been the focus of attention of philosophers, lawyers, economists, and political, and legal thinkers. The essence of the philosophy of freedom was best expressed by the German philosopher G.V.F. Hegel (2004): "Over the multitude of substantial entities hovers the last unity of absolute form – necessity". Personality, according to G.V.F. Hegel (2004), is exactly what is based on freedom. But freedom is not unlimited, a person must remember the need. A person must recognize the higher will that stands above their arbitrariness. This will be embodied in law.

The interpretation of the term "freedom" by legal science is traditionally based on its philosophical understanding. Personal freedom in the philosophical sense has always been considered as the individual's ability to self-determine, think and act or refrain from acting according to their ideas and desires, and not as a result of internal or external coercion. Freedom is directly related to the individual, in relation to whom the discussion of the fact of its existence is justified. That is, it is an abstract, relative concept, the implementation of which depends on the desire of the subject.

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Freedom can be understood as the independence of the individual from any factors besides the laws of nature and their own mind. The individual chooses the purpose and possible options of their activity at their own discretion, they have a space of freedom where they can compare alternative options, make decisions about their actions, anticipate their consequences and evaluate the results of their behaviour. If the ability to freely choose the purpose and methods of one's activity are lost, this can be considered as a loss of freedom. A person should be aware of the existing objective necessity and legitimate interests of other persons. This is a prerequisite for the formation of an individual. Freedom is usually perceived as an expression of a certain requirement put forward by possible counterparties. From this follows the ontological connection of freedom with law and human rights.

Human behaviour options are guaranteed by law and defined in legal norms. In states where the rule of law is recognized, another principle is implemented for citizens: everything that is not prohibited by law is allowed. Here, freedom is the purpose-driving activity of an individual (Bachinin, 2000). Therewith, freedom should not turn into arbitrariness, in which the limits of a person's power are determined by their strength, capabilities, influence, and treachery. Arbitrariness is freedom for one person who ignores the freedom of others, sees them as an obstacle to their own interests. Freedom for everyone is a right (as a consistent exception to violence) and equality.

The relationship between the terms "freedom" and "law" needs to be clarified. From the standpoint of philosophy, law is a social (or natural-social) phenomenon, a set of ethical values (justice, guarantee, order, morality), primarily based on the idea of equality. Equal rights should correspond to equal responsibilities. The right in its general form is a person's claim to certain material and spiritual benefits, including that they should have a certain autonomy, which is sometimes called personal space. Admittedly, law here means not a social institution, not a regulator of public relations, but subjective law. Here, freedom will be a measure of permitted

behaviour carried out in the sphere of an authorized person through the duties of other individuals. The subjective right itself is quite reasonably associated with freedom since it is a measure of freedom. According to I. Kant, the right is a restriction on the freedom of everyone, provided that they agree with the freedom of all others, as far as possible under a certain general law (Kant, 1919). In objective terms, freedom should be understood as the establishment of certain boundaries, beyond which society and the state cannot influence the individual, interfere in their life. Freedom in law (legal freedom) can be defined as the possibility of certain human behaviour legislatively consolidated in regulations (freedom of speech, freedom of religion, freedom of movement, etc.). This definition refers to an objective understanding of freedom. The social basis of law is the recognition of individual autonomy. Understanding law as a measure and form of freedom shows the possibility of revealing the priority of the human person in the complex structure of social phenomena. Law is formal freedom, formal equality of people. Legal equality makes freedom possible and valid in a general regulatory form, in the form of a certain legal order.

The question arises regarding the criteria for distinguishing between law and freedom (in the subjective sense). Such a criterion may be the existence of a clear mechanism for the exercise of the right. After all, law, unlike freedom, usually implies the existence of a specific scope of application of a regulation, a legal mechanism for its implementation. It should be recognized that the term "freedom", in contrast to the right to something, implies wider possibilities of individual choice, without delineating its particular result.

It is also possible to distinguish these concepts according to the criterion of the presence of obligations of other persons for the exercise of rights and freedoms. Freedom is related to a simple permit, it is not secured by a legal obligation, except for the obligation of everyone to refrain from committing any acts that violate this freedom. That is, it is freedom from something, or negative freedom. In law, the rights of one person are secured by the obligations of another person. The right is usually exercised through the relevant obligations of the state or other obligated entity to perform some positive action to exercise the relevant right, while pointing to the obligated person. The right here correlates with a qualified permit and is balanced by someone's duty of positive action that ensures this right (Shafalovich, 2019).

Individual freedom from the standpoint of law determines the status of a person in the state and society. It can manifest itself at various levels. First of all, freedom manifests itself as free will – an internal characteristic of the individual, inherent in it from birth. It is thanks to free will that a person is aware of their responsibility for their actions, directs their behaviour, and, accordingly, can be a subject of law that commits legally significant acts.

At the next level, individual freedom appears as a legal characteristic that determines the level of legal capabilities of an individual, their status in the state, and position in society. The individual, as the bearer of freedom, at this stage opposes society, has his or her own interests that do not coincide with the interests of the community, and means of implementing these interests. Therewith, the individual must adhere to certain principles, norms, and rules of behaviour. At this stage, a negative method of regulating public relations is implemented, the individual has the so-called negative freedom, namely freedom from threats of various types; as it were, they receive certain security guarantees from the actions of other persons and the arbitrariness of the state. An individual acquires the status of a person and citizen who is entitled to life, dignity, freedom of speech, legal equality, and other rights and freedoms guaranteed by the state. Having received guarantees of personal security, a person received the right to their own actions, i.e., the freedom to act pursuant to their interests.

Finally, the third level of individual freedom is manifested in the activity inherent in the individual. This activity is implemented at the regulatory level through a positive method of regulating public relations. The individual receives certain benefits, freedoms, takes part in public affairs, and particular specific personal, political, economic, and cultural rights and freedoms. That is, freedom becomes a fundamental principle of all spheres of society's life (Kapranova *et al*., 2018).

Thus, the freedom of the individual can be considered as the relationship between the will, thoughts, and actions of a person. Therewith, will in law is considered precisely as free will, which is opposed to unrelated arbitrariness. An indicator of the degree of freedom is law. Freedom can only be expressed in law. Accordingly, the criterion of a legal law is the amount of freedom, and law is a measure of freedom. If there is no right, then there is no opportunity to protect freedom and create conditions for its implementation. Freedom is real only if there is a legal form of its expression.

Freedom in the human community is represented by a free individual, which is a necessary basis for legal capacity and legal personality in general. However, the freedom of individuals can only be reflected through the general principle and norms of equality of these individuals in a certain area and form of their relationship. Law is not just a general scale and an equal measure, but a general scale and an equal measure of individual freedom. If the free individuality, personality, legitimate interests and legal claims of the individual are not ensured, then the subjects of law, legal relations, and legal laws cannot exist.

Freedom implies responsibility, even if it is a moral responsibility. Therefore, broad segments of the population do not always seek freedom. They easily replace the need for freedom with the need for comfort, convenience, and the absence of various difficulties and dangers

inherent in free self-determination since it involves risk and responsibility. This is precisely what the German philosopher and sociologist E. Fromm meant, who considered freedom as a measure of responsibility. In his opinion, most people are incapable of responsible actions. A person cannot be critical of themselves, adequately assess their actions. In the end, a person does not choose freedom to act (along with responsibility), but freedom from acts, duties, and responsibilities. According to E. Fromm (1944), the lost inner freedom of a slave and a conformist gives rise to a syndrome of violence, rejection of one's own uniqueness, and loss of freedom. The scientist connected this with the emergence of totalitarian and authoritarian regimes of the 20th century, which do not recognize law as a manifestation of freedom and reduce it to the arbitrariness of the sovereign, which is connected with their desire to encroach on the freedom of a person, to completely control it. This leads to despotism and slavery for most of the population, which does not always seek freedom. According to the authors of the study, the only person worthy of freedom is the one who won it in the struggle, while risking their own career, well-being, and health.

It is clear that totalitarian and authoritarian regimes restrict or even completely deny freedom. However, rather strange restrictions on freedom can also be observed in democratic states. It is known that creativity is impossible without academic freedom. Creativity can be realized as critical thinking (freedom to criticize). Creativity requires partial independence from existing knowledge (Kronfeldner, 2021). Therefore, it is difficult to understand why a scientist is obliged to cite his contemporaries, necessarily refer to a certain number of their works.

The problem of freedom is very relevant in a corrupt society, as corruption undermines human rights, the rule of law and democracy (Tymoshenko *et al*., 2021). Corruption primarily affects human rights recognized by international law. Social rights, such as the right to health and education, are most affected. Some types of corruption generally equate to discrimination, in which the principle of equality and civil liberties are necessarily violated (Peters, 2018). But is everyone ready to fight corruption? The question is rhetorical. Most people watch in silence, complain about their life, or rather their existence, and emphasize their helplessness. There are also many who are corrupt officials themselves, but cynically declare themselves anti-corruption fighters. While the existence of corruption is beneficial for some individuals, others are afraid of the consequences that may befall them if they try to fight this phenomenon, i.e., they are afraid of responsibility. Freedom here is sacrificed to illusory ideas about one's own peace and well-being.

Thus, in the philosophical aspect, responsibility is directly related to freedom. A prerequisite for responsibility is free will. A person can only be held responsible for their actions when these actions are an expression of the person's will. This provision is based on a person's understanding of the essence of justice and just punishment. Responsibility performs the function of a social regulator and controller of human behaviour. In this regard, individual legal awareness becomes particularly important, which can be considered as a person's readiness solely for lawful behaviour. Legal awareness is the basis of an individual's proper perception of state will, understanding of the norms of current legislation, and conscious fulfilment of its requirements. The formation of legal consciousness is influenced by a range of factors: socio-economic, political, and cultural. The marginal state of a person has a substantial impact on legal awareness. A marginal person expresses their attitude towards the social norm through a deviant or abnormal behavioural strategy (Tymoshenko *et al*., 2020). Legal awareness reflects the legal life of society, legal relations. Legal awareness is knowledge about law and its assessment. This is not only a reflection of the object, but also a means of influencing the object. Legal awareness can be considered as a set of views, ideas, moods concerning law, understanding the essence of law, its role in the life of society. Legal awareness – individual, group, and public – is aimed at a fair settlement of legal relations, and therefore ensuring freedom.

Freedom has certain limits. Independent subjects by the very fact of their joint existence determine the limits of their own freedom. The subject's independence in certain respects implies its dependence in other respects. This dependence of one individual on another is based on the need to recognize the sovereignty of another person as a sphere inviolable for one's own arbitrary behaviour. Only where the equal legal personality of another person is recognized, which means mutual limitations of freedom are recognized, one can speak of the existence of real rights within which freedom is enjoyed.

The limits of the exercise of subjective rights and freedoms are the legally defined limits of the activities of authorized persons for the realization of the possibilities that make up the content of rights and freedoms. That is, the limits of freedom are defined by law. The criterion for determining the limits of freedom is certain values. For instance, national security, public order, morality, public health, and the rights and freedoms of others. That is, personal freedom is largely determined by public freedom.

Individual freedom must be balanced by the freedom of others and the reasonable demands of society. Any restrictions on rights or freedoms prescribed by law must meet certain requirements: they must justify some legitimate purpose; the restriction must be justified under all conditions (Elewa Badar, 2010). For example, democracy implies freedom of speech, i.e., the ability to freely express one's thoughts, ideas, beliefs, beliefs, and disseminate any information that is not prohibited for dissemination. International legal instruments,

such as the International Covenant on Civil and Political Rights (ICCPR)[1], recognize "freedom of expression" as a right that can be exercised "orally, in writing, or through print, artistic forms, or any other means." However, the state may restrict freedom of speech for certain reasons. For this, the state must substantiate that certain interests that compete with the interests of a person regarding freedom of expression are sufficient grounds for imposing on the person concerned the obligation to refrain from fully exercising their freedom. They would have had to rely on public opinion to demonstrate such a duty, and in the end, they would have had to prove that the person concerned was directly responsible for any harmful consequences arising from that conduct. Accordingly, the state may not promote certain majority interests or withdraw its positive obligations by restricting a person's freedom (Gunatilleke, 2021).

Human freedom is subject to substantial restrictions due to the martial law in Ukraine, or even due to the COVID-19 pandemic in the world, which highlighted the challenges states face in trying to balance civil liberties with public health needs in a health emergency (Vázquez *et al*., 2022). Pandemic response strategies may include various rights based on civil liberties, including freedom of movement, free choice of place of residence, freedom of worldview and religion, and personal integrity. Civil rights and public health discourses, which attract public attention due to the restrictions on rights and freedoms imposed by the pandemic in different countries, are based on opposite assumptions about the burden of proof. Thus, for instance, in the discourse of civil and political rights guaranteed by the Canadian Charter of rights and freedoms[2], the burden of proving that any restriction of rights is justified lies with the government. In contrast, healthcare discourse in Ukraine focuses on the prevention principle, which suggests that preventive measures (e.g., quarantine) can be applied even in the absence of full evidence of the benefits of restricting rights and freedoms (Flood *et al*., 2020).

The question of the legal form of freedom is particularly relevant now, during the period of radical changes in the entire complex of social relations associated with the transition from totalitarianism to an open society. There is a liberation of human potentials, both in the mental sphere and in forms of activity that were previously prohibited, their strengthening by recognizing the diversity of needs and interests of different social groups, natural rights, and freedoms of the individual.

Human and civil rights and freedoms must be protected from encroachments not only by other persons, but also by the state. Human freedoms, as well as their rights, cannot be revoked by the state at its own discretion, if only because it threatens the existence of the state itself. The issue of protecting human freedom by the state should be decided based on the common good, individual interests, and expediency and necessity.

Conclusions

The conducted study confirmed that freedom is a mandatory attribute of the individual, which is revealed in the triad of its personal components – volitional, rational, and value-based. This is the state of the subject in which the said subject is the determining cause of their actions, which are not directly caused by natural, social, and any other factors. The prerequisite for freedom is legal equality, its single scale and equal measure. It not only does not contradict equality (specifically, legal equality), but, on the contrary, can only be implemented through equality and embodied in this equality.

At the same time, an individual endowed with freedom should not violate both the rights and freedoms of others, as well as several other values, such as national security, public order, morality, etc. A person's freedom implies their responsibility for their actions. Committing an illegal act in the presence of all the signs that form the composition of an offence is one of the grounds for legal liability. If a person commits certain acts and thereby causes harm to another person under the pressure of necessity (extreme necessity), in this case legal liability is excluded. The same consequences apply to a person who was in a state of necessary defence (if its limits are not exceeded). However, this refers only to legal liability. The question of moral responsibility is still open. Each person has their own moral principles, according to which they evaluate their behaviour. In this aspect, freedom transcends the legal category and affects the moral sphere.

Freedom is not limited by the law as a legal imperative that defines the boundaries of practical activity, turns into arbitrariness, loses its legal nature and leads to a totalitarian regime. Accordingly, real freedom cannot be unlimited. In the context of the devaluation of spiritual and political values, the relationship between freedom and law, equality, justice, legal consciousness, and legal responsibility requires a thorough investigation.

Conflict of Interest

None.

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None.

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Свобода людини в правовому вимірі

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Анотація
У статті автори досліджують свободу людини як суб'єкта права, порівнюють її зі свободою особистості, регульовану моральними імперативами. Проаналізовано різні складові структури особистості – вольову, раціональну та ціннісну. Висвітлено співвідношення понять «свобода» та «право», простежено зв'язок юридичної відповідальності та свободи. Визначено роль індивідуальної правосвідомості в забезпеченні свободи людини. Актуальність статті зумовлена потребою в обґрунтуванні способів забезпечення свободи в державі, створення механізмів подолання розбіжностей між свободою та необхідністю, свободою й рівністю. Для цього свободу розглядають у контексті права. Метою дослідження є уточнення статусу свободи як правової категорії, конкретизація її сутності, місця та значення в юридичній науці, характеристика сучасних тенденцій розвитку вказаного феномена. Методологічну основу статті становлять діалектичний, феноменологічний і синергетичний підходи, а також методи: формально-догматичний, порівняння, формально-логічний, формально-юридичний, системний і структурно-функціональний. Автори статті дійшли таких висновків: свобода особистості відрізняється від свободи людини, яка неможлива без права, без законодавчої форми її реалізації. Свобода в контексті права є юридично закріпленою в нормативних актах можливістю певної поведінки людини. Право є дієвим інструментом, що сприяє досягненню особистістю (спільнотою, суспільством загалом) стану справжньої свободи. Свобода людини може бути реалізована лише за допомогою юридичної рівності. Необмежена свобода перетворюється на свавілля та спричиняє тоталітаризм. Свобода передбачає відповідальність людини за свої діяння. Існує тісний зв'язок свободи, права, рівності, справедливості, правової свідомості та юридичної відповідальності. Наукова новизна статті визначається висновками, що полягають у розроблені цілісного уявлення про місце та роль свободи людини в системі правових категорій і ролі права в її забезпеченні

Ключові слова:
рівність; справедливість; правова свідомість; юридична відповідальність; індивід; суб'єкт

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Peculiarities of legal regulation of mine action in the country (based on modern international experience)

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Abstract
The problem of demining territories is very painful and relevant for all mankind, and especially for those countries that were in a state of armed confrontation or military conflict, because all civilians and soldiers, children and adults suffer from the unauthorized explosion of an explosive object. The purpose of the article is to conduct a well-founded and meaningful research in accordance with the specified topic, namely, regarding the activities of the countries of the world regarding the effective clearance of territories from explosive objects. During the scientific research and writing of the article, comparative, terminological, system-structural, statistical, dialectical, logical special and general scientific methods of scientific knowledge were used. In particular, the results of mine countermeasures of different countries of the world were specified using a comparative method; the system-structural method determines the sequence of presentation of the material from general information to more specific information; the statistical method was used for the analysis of actual data regarding the calculations of the features of mine action in various countries of the world in relation to Ukraine. The article proposes ways to implement mine countermeasures in Ukraine, taking into account world experience and features of the state's readiness for demining. The definition of the concept of mine action has been formulated. It was established that all mine action activities must be regulated in accordance with international legal acts. An analysis of the financial costs of mine action was carried out. It has been determined that it is necessary to conduct negotiations with specialized foreign organizations that would help organize

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the work on cleaning the territory of the state from explosive objects. The information presented in the article should be useful for scientists and practitioners studying the problems of mine action

Keywords:
legal regulation; ammunition; mines, mine action; contamination of territories; financial assistance; armed conflict; consequences of war

Introduction

According to estimates of the United Nations (the UN), 100-120 million mines of various types and types have been installed on the planet as a result of local wars and acts of terrorism in more than seventy countries. Pollution of territories with explosive objects does not stop today. Every year in the world, 70 people become victims of detonations of explosive objects, and every third of them is a child. Furthermore, it is impossible to carry out any agricultural work, construction, etc. in areas contaminated with explosive objects (Official website of the..., 2022).

This problem has not spared Ukraine. During the eight years of Ukraine's war with the russian federation, experts estimate that the area of territories contaminated with explosive objects is about 300,000 km^2, which is half of the country's territory. As the spokesmen of the State Emergency Service (SES) report, over 45,000 employees of the State Emergency Service were deployed throughout the war, and more than 324,000 explosive items, including more than 2,186 aerial bombs, were detected and defused. The territory of almost 80 thousand hectares was surveyed (State Emergency Service, n.d.). Admittedly, when the issue of clearing the territories of explosive objects arises, Ukraine will be unable to cope with this problem on its own.

Separate publications relating to mine action in general and specific types of its activity in particular were made by A. Havaza (2018), who emphasizes that one should not focus solely on humanitarian demining, since according to international standards it is a component of mine action. The study conducted by I. Duzha and L. Melnyk focuses on problematic issues of mine action and ammunition disposal, as this issue concerns the safety of the entire world society (Duzha & Melnyk, 2021). D. Okipniak, A. Okipniak, M. Zubal (2018) indicate that the specific feature of mine action was and is the elimination of risks that may arise as a result of the detonation of explosive objects or ammunition, to the level safe for the population of Ukraine. Problems of vocabulary on humanitarian demining were covered by A. Palchevska, P. Hubych (2018), which is factually a new and necessary type of research for Ukraine, since the vocabulary of a specific type of activity is an essential aspect for both translation and theoretical terminological research. G. Moskalov, I. Petrivskyi, V. Shchus, M. Artiemiev, M. Konopelniuk (2018) investigated the importance of humanitarian demining for Ukraine and the determination of priority areas for the work of relevant specialized state structures for further implementation of this activity in practical actions. B. Vorovych (2020) studied the issues of mine clearance of territories where military conflicts took place, namely the territory of Ukraine.

However, the issue of highlighting the features of the international analysis of the mine action situation has not yet been properly considered in scientific publications.

The purpose of this study was to analyse, using evidence from other countries, the specific features of joint activities, the possibilities of combining efforts of an organizational nature, financial possibilities, scientific, technical, and technological capacities of various international, national governmental, as well as non-governmental organizations in solving the problem of demining and cleaning contaminated territories from explosive objects.

To fulfil the purpose of the study, it was necessary to solve the following tasks: to formulate a definition of mine action; to analyse international regulations and legal acts of Ukraine on humanitarian demining and mine action; to analyse financial support for mine action; to determine priority areas of work on mine action in Ukraine.

Materials and Methods

Dialectical, special, general scientific, and other methods of scientific cognition were used in conducting scientific research and writing the article. The results of mine action in different countries of the world were compared using the comparative method. The terminological method was used to study the terms and concepts of mine action, by using terminological and explanatory dictionaries, special vocabulary. The system-structural method was used for a consistent, comprehensive study of the features of the organization of work on mine action, not only as a certain structured integral system, but also the study of its individual parts, such as mine prevention measures, providing mine action (training of personnel, providing technical means, creating conditions for the work of personnel), regulation of legal norms. The system method allowed analysing the system of certain rule-making processes for creating regulatory documentation in the field of mine action pursuant to international requirements. The method of dialectics and development in the system of theory of knowledge was aimed at identifying patterns of interaction of legal aspects that are appropriate in the study of general provisions that characterize mine action. Dialectics is a universal method of cognition that does not study particular

forms and types of development, but studies general connections, patterns of any change. Speaking of anti-mine activities, one needs to factor in the reasons for the contamination of territories with explosive objects, and then, accordingly, look for ways and means of cleaning these territories. The statistical method allowed studying and estimating the scale of contaminated territories, the number of destroyed explosive objects, and financial costs for mine action in different countries of the world. A logical method used based on the topic, purpose, and objectives of scientific research for an in-depth study of the essence of mine action as a system of measures. The tools of the logical method used methods of analysis and synthesis, which are interrelated. Analysis consisted in separating certain phenomena into parts, elements, while synthesis, on the contrary, combined individual features, elements into a single whole.

When studying the issue of mine clearance, regulatory documents, and legislative acts were considered, such as: "On Mine Action". Law of Ukraine No. 2642-VIII dated 06.12.2018[1], "On the Adoption of the Protocol on Explosive Objects – Consequences of War". Law of Ukraine No. 2281-IV dated 22.12.2004[2], "On transportation of dangerous goods". Law of Ukraine No. 1054-IX dated 01.01.2022[3], "On the Establishment of the National Authority for Mine Action". Resolution of the Cabinet of Ministers of Ukraine No. 1207 of 10.11.2021[4], "On Streamlining Work on Detection, Neutralization, and Destruction of Explosive Objects". Resolution of the Cabinet of Ministers of Ukraine No. 2294 of 11.12.1999[5], "On the Establishment of the Interdepartmental Commission on the Application and Implementation of International Humanitarian Law in Ukraine". Resolution of the Cabinet of Ministers of Ukraine No. 329 dated 26.04.2017[6], "On the Regulations on the General Staff of the Armed Forces of Ukraine". Presidential Decree No. 23/2019 dated 31.03.2020[7], "On the Organization of Work on the Detection, Neutralization, and Destruction of Explosive Objects on the Territory of Ukraine and Interaction During their Implementation". General Order of the Ministry of Emergencies and Protection of the Population from the Consequences of the Chernobyl Disaster, the Ministry of Defence of Ukraine, the Ministry of Transport and Communications of Ukraine, the Administration of the State Border Service of Ukraine No. 405/223/625/455 dated 27.05.2008[8].

Results and Discussion

Presently, all progressive humanity is focused on two major tasks: first, the manufacture and modernization of modern weapons, using the latest technologies; second, the disposal of outdated, redundant weapons and mine clearance of territories affected by armed conflicts. The latter task is one of the most important ones because in the territories where the fighting ended and where people return to their homes, they will constantly risk being exposed to explosive danger, i.e., constantly risk their lives. Having analysed the sources on the subject under study, the authors proposed their own definitions of the terms "mine clearance", "humanitarian demining", and "mine action".

Mine clearance is a set of measures that are carried out by mine action operators to eliminate the hazards associated with explosive objects, including non-technical and technical inspection of territories, mapping, detection, neutralization and/or destruction of explosive objects, marking, preparation of documentation after mine clearance, providing communities with information on mine action and transfer of cleared territory.

Humanitarian demining is a procedure for thorough and complete cleaning of the territory, after the active phase of hostilities (in a peaceful period of time) from remnants, parts, detonated ammunition, or those ammunition (explosive devices) that for some reason did not work and other explosive objects, which is carried out by law enforcement units and non-profit public associations.

The purpose of humanitarian demining is that the dangerous territory is completely cleared of explosive objects, and after its clearing, it becomes completely safe for the life of the population (Okipniak *et al*., 2018).

[1]Law of Ukraine No. 2642-VIII "On Mine Action in Ukraine". (2021, January). Retrieved from https://zakon.rada.gov.ua/laws/show/2642-19#Text.
[2]Law of Ukraine No. 2281-IV "On the Adoption of the Protocol on Explosive Objects - Consequences of War". (2004, December). Retrieved from https://zakon.rada.gov.ua/laws/main/2281-15#Text.
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[8]General order of the Ministry of Emergencies and Protection of the Population from the Consequences of the Chernobyl Disaster, the Ministry of Defence of Ukraine, the Ministry of Transport and Communications of Ukraine, the Administration of the State Border Service of Ukraine No. 405/223/625/455 "On the Organization of Work on the Detection, Neutralization, and Destruction of Explosive Objects on the Territory of Ukraine and Interaction During their Implementation". (2008, May). Retrieved from https://zakon.rada.gov.ua/laws/show/z0591-08#Text.

In turn, mine action is measures carried out to ensure national security and aimed at reducing the social, economic, and environmental impact of explosive objects on the life and activities of the population.

According to A. Havaza (2018), the main task of mine action (MA) is to attract the maximum number of forces and means to reduce the risks that may arise in case of a detonation of explosive objects to a safe level for the population. This allows processing fields, land plots, forest stands for economic purposes and for industrial purposes, i.e., mine action aims to reduce the threat of accidents from unauthorized explosions to zero, and thereby reduce social tension in society and preserve the environment and unique ecosystems of the state.

For the first time, international standards for mine action were prepared and published in the work of the International Technical Conference in July 1996, which was held in Denmark. These standards defined the criteria for all features of mine action, as well as recommended and agreed on new universal terms and definitions of concepts related to mine action. International standards for demining operations were developed by a working group, which was created under the leadership of the UN Secretariat. The first editions were published by the United Nations Mine Action Service (UNMAS) in March 1997 (Ducik & Chernysh, 2019).

Currently, the UN has fully assumed responsibility for ensuring the conditions and effective management of international mine action programs, including the development and approval of standards. UNMAS conducts its work on the development of standards together with the Geneva International Centre for Humanitarian Demining – GICHD. In turn, technical committees of experts, which include mine clearance specialists, develop new mine action standards, review the developed ones, and periodically review existing mine action standards. Technical committees are supported by international, governmental, and non-governmental organizations.

Ukraine also joined the requirements of international regulations on mine action, such as the second Protocol with amendments introduced in 1996 "On the Prohibition or Restriction of the Use of Mines, Mine Traps, and Other Devices"[1], the fifth Protocol "On explosive objects – consequences of war" of the Geneva Convention of 1983, "On the Prohibition or Restriction of the Use of Specific Types of Conventional Weapons That Can be Considered to Cause Excessive Damage or Have an Indiscriminate Effect"[2], the Ottawa Convention of 1997 "On the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on Their Destruction"[3] which require from Ukraine to take decisive actions regarding the adoption and performance of the requirements of the measures adopted by these international documents at the national level.

Considering the events of recent decades related to wars and military conflicts in such countries as Serbia, Croatia, Montenegro, Syria, Iraq, Afghanistan, Libya, Ukraine and others, the international community fully understands the scale and severity of the problem of clearing territories of explosive objects, i.e., objects belonging to the category of remnants of war. This problem will not be solved by itself, and therefore gradual coordinated action is needed, which can only be resolved under the auspices of the United Nations (Duzha, & Melnyk, 2021).

International standards (Ministry of Defence…, n.d.) prescribe five necessary points that complement each other: informing about the danger of mines and the danger of explosive remnants of war (ERW); carrying out activities on humanitarian demining; aid to victims, including rehabilitation and reintegration; destruction of stocks of anti-personnel mines; information and propaganda activities against the use of anti-personnel mines (Havaza, 2018).

The UNMAS reviews the norms of the International Mine Action Standards (IMAS) once every three years, which are adjusted according to the practical aspects of mine action, as well as to harmonize these changes with international rules and requirements (Havaza, 2018).

The main documents of international law on mine action include: Ottawa Convention of 1997 "On the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction"[4]; 1980 UN Geneva Convention "On the Prohibition or Restriction of the Use of Specific Types of Conventional Weapons Which May Be Considered to Cause Excessive Damage or to Have an Indiscriminate Effect"[5]; Protocol attached to the Convention as amended on May 3, 1996 "On the Prohibition or Restriction of the Use of Specific Types of Conventional Weapons on the Prohibition or Restriction of the Use of Mines, Trap Mines and Other Devices"[6].

[1]Law of Ukraine No. 1084-XIV "On Protocol on the Prohibition or Restriction of the Use of Mines, Mine Traps, and Other Devices as Amended on May 3, 1996". (1999, September). Retrieved from https://zakon.rada.gov.ua/laws/show/995_310#Text.
[2]Law of Ukraine No. 2281-IV "On the Adoption of the Protocol on Explosive Objects - Consequences of War". (2004, December). Retrieved from https://zakon.rada.gov.ua/laws/main/2281-15#Text.
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By the Law of Ukraine No. 2281-IV "On the Adoption of the Protocol on Explosive Objects – Consequences of War"[1] dated 22.12.2004, the Verkhovna Rada of Ukraine ratified the requirements of the Geneva Convention "On the Prohibition or Restriction of the Use of Specific Types of Conventional Weapons Which Can Be Considered to Cause Excessive Damage or have a non-selective effect"[2] approved on November 28, 2003 at the meeting of the member states. This document refers to the international standard on mine action. For instance, Article 7, Item 2 of the Protocol[3] states as follows: "…every High Contracting Party that is capable of doing so provides, to the extent necessary and possible, support in resolving the problems caused by existing explosive objects - the consequences of war". Therewith, the High Contracting Parties also consider the humanitarian objectives of this protocol, as well as IMAS.

The United States of America is the country that currently finances the most projects in the world for the destruction (disposal) of conventional weapons. Thanks to this assistance, by eliminating the humanitarian hazards associated with explosive objects, the situation in countries that have experienced military conflict or war contributes to international peace, stability, and security (Duzha & Melnik, 2021).

Over 30 years of investment by the United States of America in the disposal of landmines and various ammunition, over 44 billion USD has been spent. In addition, part of this amount was spent on ensuring the protection of surplus small arms, light weapons and ammunition and their safe disposal in more than 100 countries around the world. In 2020 alone, the United States financed the destruction of conventional weapons in the amount of more than $259 million in almost 50 countries of the world (Non-governmental international…, 2020; Duzha & Melnyk, 2021).

Most countries that were in a state of military conflict received financial support to eliminate the consequences of the war and clear their territory of explosive objects. To avoid an explosive catastrophe in Lebanon, the United States has provided financial support to the Lebanese government to modernize the ammunition depots of the first Artillery Regiment of the Lebanese Armed Forces (Duja & Melnik, 2021).

In the United States, the Center for Humanitarian Demining Research and Development (HD R&D) has been established in Belvoir, Virginia. The program of the Center's activities is the development, demonstration, and approval of new technological developments for the search and neutralization of mines and explosive objects of various purposes. This program uses an accelerated development process that aims to transform existing commercial technical equipment into technologies for mine clearance of contaminated areas of varying complexity (Humanitarian Demining Research…, n.d.).

The evaluation of the quality of these technologies was tested by the HD R&D Centre in 2020 in Kosovo, Bosnia and Herzegovina, Afghanistan, Angola, Colombia, Iraq, Syria, Thailand and other countries of the world where military conflicts took place (Duzha & Melnyk, 2021).

During the 27 years of its existence (since 1995), the HD R&D technologies developed and applied for practical use have cleared beyond 80 million m^2 of land areas of explosive objects, while over 227,600 engineering munitions have been removed and destroyed (Humanitarian Demining Research…, n.d.).

Since 2014, when the conflict in the east of Ukraine began, demining groups of the Armed Forces of Ukraine, pyrotechnic and explosive units of the Ministry of Internal Affairs of Ukraine have been working on clearing the de-occupied territories of Kyiv, Chernihiv, Sumy, Poltava, Kharkiv, Kherson, Zaporizhzhia, Mykolaiv, Odesa, Donetsk, and Luhansk regions. While working, mine clearance specialists deal with many tripwires, mines, and other unexploded ordnance left by terrorists. According to official sources of mass information, during the Joint Forces Operation, sapper units of the Armed Forces of Ukraine destroyed hundreds of thousands of explosive munitions, among which almost half were improvised explosive devices; during this period, 771 infrastructure facilities were demined, including 1,497 premises and residential buildings in Sloviansk, Kramatorsk, Bakhmut, and other cities; over 1.5 thousand kilometres of highways and railways were surveyed for the presence of minefields and explosive objects, numerous various objects were demined (dams, water channels, electrical substations, overpasses, etc.) (Stetsiuk, 2019).

The international community does not stand aside in providing aid to Ukraine on mine action issues. Thus, since 2016, international non-governmental organizations have been taking part in mine action in Ukraine, such as the Swiss mine action fund "FSD", the British-American non-governmental organization "The HALO Trust", the Danish demining group "DDG" (Voloshyn, 2020).

For instance, the British charity and American non-profit organization "The HALO Trust" trained over a hundred people on modern methods of conducting classes on informing about the risks of explosive objects, depending on the categories of the population: schoolchildren, teachers, employees of higher educational institutions, employees of critical infrastructure enterprises, etc. (2020).

[1]Law of Ukraine No. 2281-IV "On the Adoption of the Protocol on Explosive Objects - Consequences of War". (2004, December). Retrieved from https://zakon.rada.gov.ua/laws/main/2281-15#Text.
[2]Convention No. 995_266, "On the Prohibition or Restriction of the Use of Specific Types of Conventional Weapons That Can be Considered to Cause Excessive Damage or Have an Indiscriminate Effect". (2004, June). Retrieved from https://zakon.rada.gov.ua/laws/show/995_266#Text.
[3]Law of Ukraine No. 2281-IV "On the Adoption of the Protocol on Explosive Objects - Consequences of War". (2004, December). Retrieved from https://zakon.rada.gov.ua/laws/main/2281-15#Text.

As world practices show, the maximum efficiency of an organization for mine action is achieved when information management on mine action is carried out using software. Considering these circumstances, the Ministry of Defence of Ukraine, together with the State Emergency Service and the State Transport Service, with the support of the Organization for Security and Co-operation in Europe (OSCE), is creating an Information Management System for Mine Action (IMSMA) in Ukraine, which will maintain a special form of collecting data on incidents related to explosive objects and their victims (State Emergency Service…, n.d.).

An important aspect when clearing the territories of the state from explosive objects is a gradual step-by-step survey of territories, while it is necessary to draft maps of dangerous zones.

In Ukraine, Resolution No. 1207 of the Cabinet of Ministers of Ukraine dated November 10, 2021 established the National Mine Action Authority (NMAA)[1]. This structure is an interdepartmental auxiliary body whose main tasks are as follows: coordination of mine action activities by executive authorities, local self-government bodies and mine action operators. This body also organizes the development and implementation of national mine action standards that meet the requirements of international mine action standards and, specifically, humanitarian demining.

Demining work must be carried out directly by special units or organizations that have official registration according to international standards and meet the criteria of these standards.

For instance, Croatia is the country that suffered the most during the war in Yugoslavia, large volumes of the territory of this state were contaminated with explosive objects. In Croatia, the Croatian Mine Action Center (CROMAC) was established, which became an integral part of the state system responsible for demining. Simultaneously with the organization and implementation of works related to mine action, CROMAC is engaged in research, development of the latest methods, new mine action technologies, tests the latest technical means and equipment for demining, carries out testing and operational evaluation of modern technologies, introduces personnel training in mine action and provides technical support to countries in the region and beyond (Havaza, 2018).

An analogous centre was also created in Bosnia and Herzegovina, which coordinates mine action activities in the country between the Armed Forces, civil defence forces and non-commercial, non-governmental organizations (NGOs) that carry out demining activities (Havaza, 2018).

Another example, in the Republic of Azerbaijan, the Azerbaijan National Agency for Mine Action (ANAMA) was created by Presidential Decree No. 1251 "On the establishment of the Agency of the Republic of Azerbaijan for Demining"[2] dated 15.01.2021. This agency operates pursuant to the National Strategic Plan of Azerbaijan (Azerbaijan's National Development…, 2022). An interesting fact is that the financing of mine action projects is carried out with contributions from donor countries and international organizations, which makes up 90% of ANAMA's total budget (Havaza, 2018). The main donors to mine clearance in this country are the United States of America, the UN, the European Commission and others.

International practices indicate that it is advisable to create an operational Mine Action Center under the National Mine Action Authority, which will help with mine clearance and will be responsible for:

– coordination and planning of mine action activities;

– providing technical advice to operators and the National Mine Action Authority;

– creation and maintenance of mine action databases;

– accreditation of organizations that may be involved in the implementation of mine action activities;

– conducting an investigation of accidents and incidents related to mine action (Duzha & Melnik, 2021).

Mine action requires large material costs, such as training specialists, development and acquisition of technical means, organizational issues related to mine clearance, improving legislation and solving many other components related to the implementation of these works. Therefore, no state can manage independently using its own resources, and as practice suggests, there are various funds, government programs and non-governmental organizations in the world that can finance work and provide technical and professional support for mine action.

Taking each aspect of mine action organization separately, an important stage of this work is the training of specialists; according to A. Havaza (2018), the issue of training in mine action should concern not only demining specialists, but the entire population of the country, and first of all, it concerns teachers, schoolchildren, specialists who are involved in the work of critical infrastructure.

The position of the team of authors H. Moskalov, I. Petrivskyi *et al.* (2018) regarding the training of specialists is such that an important aspect is the scientific rethinking and introduction of new technologies in the training of mine clearance specialists. This aspect also applies to specialists of the Armed Forces of Ukraine and mine clearance units of law enforcement agencies, non-governmental organizations. After all, technological advance in the development of the latest technologies, new means and methods for cleaning territories contaminated with explosive objects are constantly being improved.

[1]Resolution of the Cabinet of Ministers of Ukraine No. 1207 "On the Establishment of the National Authority for Mine Action". (2021, November). Retrieved from https://zakon.rada.gov.ua/laws/show/1207-2021-%D0%BF#Text.
[2]Decree of President of the Republic of Azerbaijan No. 1251 "On the establishment of the Agency of the Republic of Azerbaijan for Demining". (2021, January). Retrieved from https://azertag.az/ru/xeber/1689349.

Against the background of interaction between state bodies that can be involved in the processes of cleaning territories from explosive objects, it is necessary to factor in professional vocabulary and terminology. Mine clearance is a separate type of professional activity that belongs to dangerous types of work, and a correct understanding of the situation when performing special mine clearance operations is vital. Terminological issues are especially important in the interaction of different fields of activity of specialists or in international cooperation during the cleaning of territories contaminated by explosive objects.

Research was also conducted on this topic by researchers A. Palchevska and P. Hubych (2018), who investigated the issues of communication, terminology, and availability of terminological dictionaries on humanitarian demining. The official language of humanitarian demining in the world is English, which allows specialists from different countries of the world to quickly master the situation and make important decisions when performing work. Furthermore, as the authors point out, the term system of humanitarian demining is of value in the context of philological terminology studies. Since the process of humanitarian demining in Ukraine is just beginning, the needs of competent translations create demand. And as a conclusion, the authors point out that there is a need to compile English-Ukrainian dictionaries of specific terminology on mine clearance, and it can be considered a priority for Ukrainian terminography.

Financing of mine action activities is also an important aspect. It is quite logical that the contamination of territories with explosive objects is carried out during military operations (war). War is a terrible and dangerous phenomenon that adversely affects all aspects of the development of the state and public life. During the active phase of hostilities, industry stops working, business closes or moves to other safe places, budget revenues are considerably reduced, and accordingly, the state cannot provide full-scale mine clearance measures on its own. One of the possible ways to avoid this problem is to appeal to the international community with a request for financial support.

I. Duzha and L. Melnyk (2021) conducted a scientific study on this issue and concluded that the United States of America is the world leader in providing financial support for mine action. The programs created by the United States for mine action around the world are aimed at strengthening civil protection of the population and achieving the national security goals of both the United States and its partners, neighbours, and the entire international community. This is evidenced by the following facts, the provision of financial support to the countries of former Yugoslavia, Africa, and Asia. Moreover, the amount of support is hundreds of millions of dollars.

Technical support is also an important factor in mine action. Currently, numerous technical developments have been developed for the search, neutralization, and destruction of detected explosive objects. From a practical standpoint, it is much more difficult to develop and implement technical means in practical activities than to master already developed technical means that work successfully and have proven themselves well in mine action. Technical means include various kits, metal detectors, protective equipment, and robotic complexes. A large number of previously developed technical tools are currently being improved and upgraded.

According to V. Kyrylenko and V. Neroba (2019), when clearing large territories, technical means should be used, namely multifunctional technical means that are intended for demining territories. The world practices of operating mobile robotic complexes are considered as a basis for promising developments. The main trend in the implementation of these developments is to equip the complexes in use with means of automation of management, artificial intelligence, and advanced means of management.

The position of B. Varovych (2020) on this issue is that for the survey of minefields, it is advisable to investigate and analyse the world practices in the use of unmanned aerial vehicles (drones) in mine clearance of territories. Practical actions to clear minefields with unmanned aerial vehicles show great efficiency and cost-effectiveness. The scientist also claims that in the future, it is advisable to conduct scientific research to perfect the efficiency and improvement of samples of equipment and technologies for searching for and neutralizing explosive objects.

At the current stage of its existence, Ukraine has experienced great trials and losses due to the attack of the troops of the russian federation, but wars end and life goes on, and considering the statistical data on the contamination of the territory of the state with explosive objects, Ukraine must unite its efforts in such a way as to clear the territory and make it safe for living.

As B. Varovych (2020) claims, no country in the world facing the problem of demining territories after military operations can solve this problem on its own, i.e., at the expense of the personal budget, and therefore it turns to international and domestic official suppliers for help with humanitarian demining services.

Furthermore, as the author notes, international practices indicate that countries with less economic development choose the path of creating national mine action programs based on the state power structures of the Ministry of Defence, while countries with greater economic development allocate humanitarian demining as a separate activity, which allows attracting international aid, non-governmental organizations and help the Ministry of Defence avoid performing functions not inherent to it.

Therefore, to solve the issue of clearing territories of explosive objects, it is necessary to investigate the practices of other countries and introduce new promising technologies for training specialists, developing technical means, and implementing programs. In addition,

a significant guarantee in the organization of mine action is constant communication with the UN and non-governmental organizations of other countries that have extensive practical experience in humanitarian demining.

Conclusions

Thus, considering the above, according to the results of the study of sources of scientific literature and official documents, the solution to the issue of mine clearance and clearing of contaminated territories of Ukraine from explosive objects is possible, but it is necessary to consider international practices and involve various international, national governmental, and non-governmental organizations in joint efforts.

Today, Ukraine has developed the necessary regulatory framework, practical experience of mine clearance practitioners in the Armed Forces of Ukraine, the State Emergency Service, and the National Police of Ukraine. Furthermore, judging by the reaction of international partners, the international community is ready to support Ukraine in implementing the necessary political, regulatory, and practical measures to solve the problem of clearing the territory of explosive objects.

The international legal framework for mine action is the international standards developed and approved by the units of the UN Secretariat on mine action, Protocols and Conventions on the prohibition or restriction of the use of specific types of conventional weapons or ammunition also play a vital role. Ukraine has recognized and joined the implementation of relevant international regulations, having developed its own internal legislative acts governing mine action in the state and meeting the requirements of the United Nations. The study analysed the financing of mine action activities at the international level.

Considering all these circumstances, it can be stated that Ukraine will not be left alone with its problems regarding the demining of territories, and concerned citizens of the country are already monitoring and preparing for an active approach to demining territories at a fast pace, after the end of the active phase of hostilities. Likewise, it is evident that the country is conducting educational work on the safety of handling explosive objects, the scientific community in all areas conducts research on the issues of humanitarian demining and this gives optimism regarding this problem.

Conflict of Interest

None.

Acknowledgements

None.

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Особливості правового регулювання протимінної діяльності країни (на прикладі сучасного міжнародного досвіду)

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Анотація
Проблема розмінування територій актуальна для всього людства, особливо для тих країн, які перебували в стані збройного протистояння чи військового конфлікту, адже від несанкціонованого вибуху вибухонебезпечного предмета страждають усі цивільні та військові, діти й дорослі. Метою статті є проведення ґрунтовного дослідження відповідно до зазначеної тематики, а саме щодо діяльності країн світу з приводу ефективного очищення територій від вибухонебезпечних предметів. Методологічну основу становлять порівняльний, термінологічний, системно-структурний, статистичний, діалектичний, логічний, спеціальні та загальнонаукові методи наукового пізнання. Зокрема, шляхом застосування порівняльного методу уточнено результати протимінної діяльності різних країн світу; системно-структурного методу – визначено послідовність викладення матеріалу від загальної інформації до більш конкретної; статистичний метод застосовано для проведення аналізу фактичних даних щодо розрахунків особливостей протимінної діяльності в Хорватії, Сербії, Чорногорії, Сирії, Лівії, Іраку, Афганістані, Азербайджані стосовно України. У статті запропоновано шляхи реалізації протимінної діяльності в Україні з огляду на світовий досвід й особливості готовності держави до розмінування. Сформульовано визначення поняття протимінної діяльності. Констатовано, що всі роботи з протимінної діяльності повинні бути врегульовані відповідно до міжнародних правових актів. Проведено аналіз фінансових затрат із протимінної діяльності. Визначено, що в умовах сьогодення слід вести перемовини з профільними іноземними організаціями, які б сприяли організації роботи щодо очищення території держави від вибухонебезпечних предметів. Результати дослідження мають практичне значення для науковців і практиків, що вивчають проблематику протимінної діяльності

Ключові слова:
правова регуляція; боєприпаси; міни; протимінна діяльність; забруднення територій; фінансова допомога; збройний конфлікт; наслідки війни

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Criminal offences related to domestic violence: Structure of the investigation methodology

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Abstract
Violence by family members is not only systematic in nature, but also characterized by an increase in their intensity, growth in aggression, and the feeling of impunity and the inability of the victim to resist, leads to serious criminal consequences. Even after detection of criminal offenses leading to maiming or death of a person, it is not always possible to identify their connection with domestic violence. Such a situation can be avoided by following a defined, scientifically based structure of actions. Therefore, today there is a need to develop algorithms for investigator actions during the investigation of criminal offenses that are the consequences of domestic violence. That is why in the article the author sets the goal of determining mutually dependent elements of the process of investigation of criminal offenses. To achieve the specified goal, the methods of analysis, synthesis and questionnaires, the decomposition method, and the special legal method were used. As a result, such work made it possible to justify the feasibility of dividing the investigation methodology into nine mandatory structural elements. The fullness of such elements depends on the investigative situation, on the specific type of criminal offense committed, the form of implementation of criminal plans, the identity of the offender (either a person who commits systematic domestic violence or a person who is a victim of such violence or a witness to it), the presence or absence previous experience of illegal behavior of the offender, place of commission of the criminal offense (rural area or environment of a big city).The article substantiates the need to include in the structure of the methodology such structural elements as "interaction with state and public bodies, institutions and organizations on the prevention and counteraction of domestic violence and gender-based violence" and "preventive activity of the investigator in criminal proceedings related to domestic violence" violence". It is also determined that the effectiveness of the methodology is determined by the interdependence of the investigative (search) actions, compliance with the stages of the investigation and the timeliness of the involvement of relevant specialists in it. Such elements, subject to the correct sequence and combination, form the methodology of investigation of the specified category of criminal offenses. The practical value of the work lies in the formation of an effective program, the planning of the investigator's

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actions not only with the aim of establishing the circumstances of the event, but also establishing a cause-and-effect relationship between domestic violence and other criminal offenses

Keywords:
criminalistic characteristics; special knowledge; investigation tactics; investigative situation; illegal activity

Introduction

The complex, long, and time-consuming process of investigating criminal offences requires the scientific community to constantly analyse, create, and develop investigation methods based not only on the types of offences defined in the Criminal Code of Ukraine, but also on their individual aspects and manifestations, considering the characteristic features – the method of commission, identity of the offender or victim, territoriality, level of public danger, etc. Such activities require the search and determination of effective algorithms that factor in the interdependence of individual investigative (search) actions, the stages of the investigation and the timely involvement of appropriate specialists in it.

Forensic scientists such as A.P. Zapototskyi (2018), V.V. Tishchenko (2017), V.V. Piaskovskyi (2020) note that with the development of society there are corresponding changes in the human rights sphere, which in turn require relevant institutions to solve tasks towards countering crime. This situation creates problematic tasks for criminalistics, namely in terms of adapting forensic methods to modern legislation. The author emphasizes the need to consider legislative changes during scientific research, and not only those related to the criminal procedure.

Scientific research and development should be accessible and understandable to the practitioners who directly implement scientific achievements in practice. The adaptation of practical activities to the requirements of legislation, as well as the introduction of achievements and the latest developments of certain sciences (psychology, engineering, medicine, etc.) into practical activities require the construction of effective communication between theoreticians and practitioners.

The importance of the communication component between practitioners and scientists is also indicated by researchers from the United States of America (Carlson *et al*., 2021), who emphasize that during the investigation of a crime, evidence is collected, analysed, interpreted, and discussed by various stakeholders. Such communication can be understood as a set of interdependent actions: e.g., a request for a particular analysis or study from an investigator involves obtaining the relevant opinion of an expert or specialist, which is further evaluated by the investigator considering the circumstances of the case. Based on these conclusions, there is a need to clarify or establish the following circumstances, which leads to further analysis of requests, etc. Such interaction is necessary to understand the evidence and implement the function of each participant in the investigation.

UK researchers (Yu *et al*., 2023) point out that complex crime investigations often require both an interdisciplinary and interagency approach. This is especially true for the initial stage of the investigation when clear forensic strategies are needed, which involves the creation of a joint action plan that combines the knowledge and achievements of various disciplines, including the research of forensic practitioners. The key to effective planning is to ensure that all participants have the clearest possible understanding of the context and interrelationships of areas of interest in the investigation, as well as an assessment of evidence of potential interest to prove. Mehzeb Chowdhury (2021) from the University of the West of England also researched the issue of combining scientific and practical experience during the investigation of criminal offences, noting that ensuring the quality of practical activities at the scene of a crime is an underdeveloped and understudied field, despite its crucial importance and impact on achieving the goals of criminal justice.

There is a difference between a practising police officer and a scientist in providing evidence. Such a situation can manifest itself as a mismatch between the "mode of urgency" and the "prospective mode" (Li Vigni, 2020). Scientists from Germany and the Netherlands (Dirksen *et al*., 2022) explain this situation by the fact that during the investigation of a criminal offence, the police direct the main efforts to quickly establish the identity of the suspect to prevent the commission of a new crime, while the scientist (in the legal field) investigates many possible options, avenues of investigation, considering cognitive and normative markers that make some future lines of inquiry more plausible and desirable, but long-term.

Notably, the pre-trial investigation is determined by the norms of criminal procedural legislation, and accordingly, these norms have an impact on the structure of methodology, form, and sequence of application of special knowledge and procedural actions. For the practical worker, all the achievements of scientists should be clear and adapted for application. Therefore, it is necessary to determine the structure of the new methodology for investigating criminal offences based on the available practical developments, factoring in current changes in the legislative and scientific spheres.

The reason for the lack of practical training in the investigation of criminal offences related to domestic violence is that, in comparison with other manifestations of violent actions that encroach on human rights

and freedoms, domestic violence was considered purely a family affair for many centuries because of religious norms, traditions, and customs of peoples (Komarynska, 2022). This problem is not limited to a particular religion, nationality, nation, or territory. Violent actions against loved ones are not only long-term and cause physical and moral pain, they also affect the normal development of children who grow up in such conditions, which in turn hinders the normal development of society. However, despite all the negative manifestations and consequences of such violence, today not all countries (Pakistan, South Africa, russia) have criminalized such actions (Komarynska, 2022). Therefore, even with considerable achievements in ensuring the rights of victims of domestic violence, the speed of response to reports of such facts, the availability of internet platforms with a variety of regulatory and psychological and therapeutic information, media coverage of advice and addresses of shelters for victims, abusers stay unpunished.

Therefore, the purpose and tasks of this study were defined by the author as follows: to investigate and form the structure of the methodology of investigation of criminal manifestations of various degrees of severity, which is a consequence of systematic perpetration of violent acts in the family environment. Proceeding from the results of a questionnaire and survey of practitioners, the author was to determine the elements of the methodology inherent in the category of criminal offences under study.

Literature Review

Determining effective algorithms of the investigator's actions, technologies for the investigation of certain criminal offences, including those related to domestic violence, involves the separation of interdependent elements united by a single purpose. Notably, it is the methods of investigating criminal offences of various types (murder, mutilation, and torture, driving to suicide, human trafficking, etc.) that should become the basis for determining the structure of the methodology of the criminal offences under study.

The structure of forensic methods of investigation of criminal misdemeanours and crimes is studied by scientists, considering their individual manifestations and characteristics. Depending on the criminal law feature, the structure of the investigation methodology is divided into two groups: separate types of crimes and separate groups of crimes united by a certain feature (the offender's persona, group nature of crime, etc.) (Filipov, 2014; Illes & Wilson, 2020). According to the type of classification, namely the basis of its classification, scientists (Shchur, 2010; Shepitko, 2010; Pyaskovskyi *et al*., 2020) distinguish the main, most significant structural elements of the methodology of investigation of criminal offences.

In studies of recent years (2000-2023) on the methodology of investigation of certain types of criminal offences, the authors lean towards a broader and more informative typical structure of the methodology of investigation of criminal offences. Consistency of the opinions of scientists is traced in the mandatory filling of such structural elements of the methodology as forensic characteristics; circumstances to be established and proven; investigative situations, versioning and investigation planning; tactics of overt and covert investigators (detectives); specific features of using special knowledge in criminal proceedings of this category; determination of the order of organization of the interaction of the investigator with the employees of operational units. Therewith, such structural elements of the methodology, which determine the algorithm, assistance in obtaining information from the media and public organizations, and the algorithm for conducting preventive actions by the investigator and other subjects of the investigation, have received almost no attention from scientists.

The unifying factor in all scientific discussions is that all elements of the structure of the methodology for investigating a criminal offence should be interrelated and interdependent.

Admittedly, the broader the subject of the methodology, i.e., the more it covers the composition of crimes, methods of commission, categories of individuals involved in a criminal offence, the broader its structure will be. Often, attempts by scientists to identify as many manifestations of criminal activity as possible lead to the opposite result. Such many scientific developments are still only theoretical material and are not applied in practice, due to the overload of scientific categories, the lack of need for practitioners, due to the availability of more effective methods, or non-compliance and contradictions with the requirements of legislation, which occur as a result of legislative changes.

The difficulty in creating a methodology for the investigation of criminal offences related to domestic violence is that, as noted earlier, research on this issue is just beginning, since the fight against manifestations of domestic violence has gained its relevance relatively recently (Komarynska, 2022). Due to the latest definitions of the criminal-legal essence of domestic violence, many scientific studies in criminology are related to the classification of crimes related to domestic violence; the procedure for conducting individual investigative (search) activities involving victims of particular violence; the use of specialized knowledge in the investigation of crimes related to family violence. However, no comprehensive scientific research has been conducted on the principles and features of building and implementing a methodology for investigating domestic violence.

Materials and Methods

To substantiate the structure of the forensic methodology, to algorithmize the investigation of criminal misdemeanours or crimes committed in the family, it is necessary to define the level, staged tasks that arise before the investigator starting from the first steps of

the investigation. It is an understanding of these tasks that allows identifying structural components, each of which will have the purpose of solving a particular task. For this purpose, the decomposition method was used, which identified groups of interrelated tasks, which are less complex if they are solved at the relevant levels.

Furthermore, using the methods of analysis and synthesis, the results of a group survey of employees of the National Police of Ukraine were generalized, which was conducted in writing and distributed among 102 employees of the investigative units of the National Police of Ukraine, in the period from October 2021 to February 2022, during the completion of advanced training at the National Academy of Internal Affairs. For this purpose, open-ended questionnaires were distributed to the respondents, in which they were asked, based on their own practical experience, to indicate, in their opinion, the principal tasks that need to be solved during the pre-trial investigation of the specified category of cases. The survey was anonymous, and the results were obtained by generalizing the questionnaire.

General scientific methods (analysis and synthesis) were used to determine the problematic aspects of pre-trial investigation, which as a result have a negative impact on establishing the offender's guilt. The special legal method was used to investigate the judicial practice for the period from 2019 to 2022, which are publicly available in the Unified State Register of Court Decisions (Unified state register of..., n.d.).

The specific sociological method was used to analyse the existing scientific research.

Results and Discussion

The results obtained during the study actualize the need for an effective methodology that would determine the intermediate goals of the pre-trial investigation, would promote qualified work with forensic information and, accordingly, the proper preparation of criminal proceedings materials.

Thus, in 38% of court decisions, it is stated that during the pre-trial investigation, the facts of the connection between the criminal offence and domestic violence are not established or are not procedurally established, so they cannot be considered by the court. Such a situation indicates the improper conduct of a pre-trial investigation, which is conditioned upon the lack of an effective algorithm for establishing and procedurally securing evidence of systematic psychological, physical, economic, or sexual acts in the family circle in the proceedings and other evidence that the criminal offence was connected with domestic violence.

In addition, 87% of respondents during the survey noted that criminal offences committed in connection with domestic violence have different degrees of social danger and, accordingly, different consequences. In 68% of cases, victims are silent, not reporting the facts of such violence. Such a situation leads to the offender's feeling of impunity and confidence in the correctness of their actions, which in the future will have grave consequences, even lethal ones. Accordingly, practitioners indicate that in 53% of cases, the investigator becomes aware that the committed criminal offence is the result of domestic violence after the victim's next appeal to the police.

Many public institutions (public organizations, unions, charitable and religious organizations, etc.) legalized pursuant to the legislation of the Resolution of the Cabinet of Ministers of Ukraine[1], have the task of aiding victims of domestic violence during the entire period of violence and after its cessation, i.e., its consequences. Accordingly, representatives of such organizations have a lot of criminally significant information. Entities carrying out measures in the field of prevention and counteraction of domestic violence and gender-based violence specified in Article 6 of the Law of Ukraine "On Prevention and Combating Domestic Violence"[2] and Article 7^{-1} of the Law of Ukraine "On Ensuring Equal Rights and Opportunities of Women and Men"[3] (except for citizens of Ukraine, foreigners, and stateless persons who are in Ukraine on legal grounds). And the procedure that determines the procedure of their interaction was approved by the resolution of the Cabinet of Ministers of Ukraine No. 658 "On the Approval of the Procedure for the Interaction of Entities Implementing Measures in the Field of Prevention and Counteraction of Domestic Violence and Gender-Based Violence" dated August 22, 2018[4]. Therefore, one of the intermediate tasks of the investigator is to establish existing state and public organizations within the relevant territory, authorized to act towards countering and preventing domestic violence; establishment of effective interaction with them; obtaining and procedural consolidation of forensically significant information about the personal characteristics of participants in domestic violence, its periodization, conditions, and systematization.

The specific feature of the preventive activity of the investigator and other competent subjects in criminal

[1]Resolution of the Cabinet of Ministers of Ukraine No. 658 "On the Approval of the Procedure for the Interaction of Entities Implementing Measures in the Field of Prevention and Counteraction of Domestic Violence and Gender-Based Violence". (2018, August). Retrieved from https://zakon.rada.gov.ua/laws/show/658-2018-п#Text.
[2]Law of Ukraine No. 2229-VIII "On Preventing and Countering Domestic Violence". (2017, December). Retrieved from https://zakon.rada.gov.ua/laws/show/2229-19#top.
[3]Law of Ukraine No. 2866-IV "On Ensuring Equal Rights and Opportunities for Women and Men". (2005, September). Retrieved from https://zakon.rada.gov.ua/laws/show/2866-15#top.
[4]Resolution of the Cabinet of Ministers of Ukraine No. 658 "On the Approval of the Procedure for the Interaction of Entities Implementing Measures in the Field of Prevention and Counteraction of Domestic Violence and Gender-Based Violence". (2018, August). Retrieved from https://zakon.rada.gov.ua/laws/show/658-2018-п#Text.

proceedings related to domestic violence is that the investigator must collect and submit to the court evidence confirming the existence of the probability of repeating the commission of both domestic violence and criminal offences related to the perpetrator; evidence of the existence of a threat to the health and safety of the victim and witnesses; evidence of possible negative consequences in case of continued criminal prosecution, etc.

As an example of mistakes made during the pretrial investigation of criminal offences of the specified category, it will be appropriate to cite the decision of the Nova Ushytsia District Court of Khmelnytskyi Region in case No. 680/320/20[1]. Thus, the court considered in an open court session in the courtroom the criminal proceedings introduced in the Unified Register of Pre-trial Investigations under No. 12020240190000062 dated April 13, 2020, established as follows: By the body of the pre-trial investigation, the defendant is accused of the fact that on April 13, 2020, around 09:00 a.m., while at home at his place of residence during a verbal conflict, which occurred based on a suddenly arising hostile relationship with his cohabitant, with whom he is in a family relationship, with the purpose of inflicting physical injuries on the latter, he deliberately struck one blow on the upper right part of the victim's back with the fist of his right hand, which caused her physical injury in the form of one bruise in the interscapular region on the right, which in terms of severity belongs to the category of light physical injuries. Such actions are qualified by the pre-trial investigation body under Part 1 of Article 125 of the Criminal Code of Ukraine[2], as intentional light bodily injury.

However, the victim filed a motion with a waiver of charges. To which the prosecutor objected to the specified motion, justifying their position by the fact that the provisions of Item 7, Part 1 of Article 284 of the Criminal Procedural Code of Ukraine[3] prohibits the closing of criminal proceedings regarding a crime related to domestic violence.

At the court hearing, the court noted that the term "crime related to domestic violence" is broader than the term "domestic violence", such illegal actions cover not only the commission of this crime, but also include other socially dangerous behaviour with signs of domestic violence. Therefore, when establishing the content of the above concepts, one should proceed from the particular circumstances of the case, and not solely from the qualification of the guilty party's behaviour. Therefore, the task of the prosecution is to prove the circumstances that indicate the commission of both domestic violence and other crimes related to the victim.

The prosecution must provide evidence that these two offences are related so that the defence can be able, pursuant to the established procedure, to refute them. That is, for the court to recognize a crime related to domestic violence, it is mandatory to reflect this circumstance in the wording of the charge (in the report of suspicion, in the indictment). In addition, these documents must indicate the relevant factual circumstances: family or kinship relations between the victim and the abuser, the nature of violence, etc.

In the proceedings, No. 680/320/20[4] of the prosecution in the indictment indicated that the accused committed the crime because of a suddenly arising hostile relationship. This wording alone does not indicate that the violence was caused by discriminatory treatment of the victim aimed at maintaining dominance over the victim, or that it was one of the cases of domestic violence between the accused and the victim. In addition, the prosecution did not provide information about bringing the accused to administrative responsibility for the previous facts of showing an aggressive attitude towards the victim earlier. As a result of consideration of the mentioned case, the court found the fact that the victim was a victim of domestic violence unproven, and, accordingly, that the incriminated crime was "related to domestic violence".

Such circumstances confirm and actualize the need to create an effective methodology for investigating criminal offences related to domestic violence, which will help eliminate such gaps in the activities of pre-trial investigation bodies. Among such mistakes, the main ones are the lack of evidence of a cause-and-effect relationship between a separate criminal offence and domestic violence, the lack of evidence of systematic perpetration of violence, which can be obtained not only from the victim and witnesses of the immediate event, but also from authorized institutions and organizations operating towards prevention and counteraction of domestic violence.

The development of such a methodology should factor in the combination of proven methods of investigating criminal offences that are usually associated with domestic violence and methods of investigating domestic violence itself, specifying the structural elements and their fullness. Considering the relatively new type of criminal offence such as domestic violence, its recent criminalization in Ukraine, the development of a methodology for

[1]Court case No. 680/320/20 "Unified State Register of Court Decisions". (2022, September). Retrieved from https://reyestr.court.gov.ua/Review/85166572.
[2]Criminal Code of Ukraine No. 2341-III. (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14#Text.
[3]Law of Ukraine No. 2227-VIII "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine to Implement the Provisions of the Council of Europe Convention on the Prevention of Violence Against Women and Domestic Violence and the Fight against These Phenomena". (2017, December). Retrieved from https://zakon.rada.gov.ua/laws/show/2227-19#Text.
[4]Court case No. 680/320/20 "Unified State Register of Court Decisions". (2022, September). Retrieved from https://reyestr.court.gov.ua/Review/85166572.

investigating criminal offences related to it is in demand by practical units of the National Police of Ukraine.

Therefore, considering the complex nature of illegal actions related to domestic violence, the following general structure of the methodology of their investigation will be appropriate:

1) forensic characteristics, the fullness of the elements of which is determined by the appropriate level (general, special, single);

2) circumstances to be established and proved;

3) investigative situations, versioning, and planning of the investigation;

4) features of formation and implementation of tactical techniques, combinations, and operations;

5) tactics of overt and covert investigative (search), other procedural actions and measures at the initial, subsequent, and final stage of the investigation;

6) features of using special knowledge in criminal proceedings of this category;

7) features of interaction of the investigator with operational units and divisions of preventive activities and operational units of the National Police, state and public bodies, institutions, and organizations (regardless of the form of ownership), whose tasks are to prevent and counteract manifestations of violence in the family and based on gender;

8) the importance of using the assistance and capabilities of the population and the media in the investigation of criminal offences;

9) features of preventive activities of the investigator and other competent entities in criminal proceedings related to domestic violence.

Understanding the essence of crime detection activities, i.e., its basics, rules, and technology, contributes to the construction of forensic methods for investigating a particular category of crimes (Tishchenko, 2007). It is the consideration of forensically crucial features of a criminal event that affects the content of such a methodology. These signs include the method of commission, features of the trace picture, and characteristics of the criminal's identity. There can be no general or universal method of Investigation designed to solve any type of crime, although it appears appropriate to develop a basic model of forensic methods of investigation (Zhuravel, 2012), or a basic program of investigation (Tishchenko, 2017).

Usually, during the formation of the methodology of the investigation of a criminal offence that combines several components of the crime, it is necessary to supplement the basic structure of the methodology with individual structural elements for a particular type of offence. Therefore, the issue of creating and implementing methods for investigating "broader groups of torts than the types of crimes" becomes relevant (Stepanyuk, 2014).

However, even such basic models differ in their content. Thus, individual scientists (Filipov, 2014) do not reflect the versioning process and the specific features of the use of special knowledge in the structure of the methodology, and do not factor in the stages of the investigation, namely the sequence and appropriate implementation of actions. For a qualified investigation, not only the initial stage of the investigation highlighted by the author is important, but also the following and final stages, which have their specific features (depending on the type of offence) and significance for proving the guilt of the offender. Other researchers (Shchur, 2010) single out as a separate element "elimination of opposition to the investigation", although this very issue is solved by the investigator during the entire investigation using the tools of forensic tactics. Some scientists (Shepitko, 2010; Pyaskovskyi *et al*., 2020) do not define in the structure of the methodology the actions of the investigator, which will be directed not only towards the establishment or clarification of forensically important circumstances, but also towards the establishment of circumstances subject to proof.

Proceeding from Volobuyev's (2011) definition of a complex methodology for the investigation of criminal offences, one that combines various types of criminal offences that are interconnected, as a result of which they acquired signs of systemic activity, the method of investigating criminal offences related to domestic violence belongs to the complex category.

The analysis of scientific research and the opinions of practical workers suggests that it is necessary to determine the importance of including criminal offences related to domestic violence in the structural elements of the investigation methodology – the specific features of attracting the help of the public and using the possibilities of the media during the investigation of criminal offences of this type (groups) and specific features of preventive activities of the investigator, other competent subjects in criminal proceedings related to domestic violence.

Conclusions

In summary, it can be argued that the methodology for investigating criminal offences related to domestic violence is complex, since it involves combining the investigation of two types of criminal offences, which is combined with a single criminal plan and has signs of systematic nature.

Solving a complex task, namely establishing and proving the guilt of the offender and the cause-and-effect relationships of a separate criminal offence with domestic violence, involves solving a certain number of intermediate tasks. Such tasks correspond to the stages of the investigation and the corresponding investigative situations. The investigation of such complex facts requires the investigator to follow a certain sequence of actions conditioned upon a scientifically based and proven structure.

For this, based on the available, proven practice, systems of effective actions in the investigation procedure and existing legislative norms related to pre-trial investigation

and countering manifestations of domestic violence, factors have been identified that cause not only the occurrence of violence in the family circle, but also cause the latter to develop into actions with more grave consequences.

The combination of the results of the survey of practitioners of the National Police of Ukraine and the available scientific research and judicial practice allowed summarizing the relevant stages, methods, and means of gradual activity of the investigator to identify, collect, and investigate forensic information that occurs as a result of illegal activities. The nine-element structure of the investigation methodology was also defined, which determines the detection and accounting of signs of domestic violence starting from the moment of receiving information about the commission of a criminal offence.

Compliance with this method allows collecting evidence of possible repetition of violent actions, the existence of a danger to the victim and witnesses. Adherence to the investigation methodology by the investigator will contribute to the discovery and procedural processing of all evidentiary information.

Prospects for further research are conditioned upon the need for a thorough study of the unified system of actions for the investigation of criminal offences related to domestic violence, which will serve as the basis for the formation of an algorithmic approach of narrower investigation methods. This refers to methods of investigating leading to suicide in connection with domestic violence; beatings and torturing committed as a result of domestic violence; abuse of guardianship rights, etc.

Conflict of Interest

None.

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Кримінальні правопорушення, пов'язані з домашнім насильством: структура методики розслідування

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Анотація
Насильство з боку членів родини має не лише систематичний характер, а й характеризується збільшенням інтенсивності, зростанням агресії, а відчуття безкарності й неможливість жертви чинити опір спричиняють тяжкі кримінальні наслідки. Навіть після виявлення кримінальних правопорушень, які спричиняють каліцтва або смерть людини, виявити їхній зв'язок із домашнім насильством не завжди є можливим. Уникнути такої ситуації можна дотримуючись визначеної, науково обґрунтованої структури дій. Тому в умовах сьогодення існує потреба в розробленні алгоритмів дій слідчого під час розслідування кримінальних правопорушень, які є наслідками вчинення домашнього насильства. Саме тому автор статті поставив за мету визначити взаємообумовлені елементи процесу розслідування кримінальних правопорушень. Для досягнення зазначеної мети було використано методи аналізу, синтезу та анкетування, метод декомпозиції, спеціально-юридичний метод. У результаті така робота дозволила обґрунтувати доцільність розподілу на дев'ять обов'язкових структурних елементів методику розслідування. Наповненість таких елементів залежить від слідчої ситуації, конкретного виду вчиненого кримінального правопорушення, форми реалізації злочинних задумів, особи правопорушника (будь-то особа, яка чинить систематичне домашнє насильство, або особа, яка є потерпілою від такого насильства, або його свідком), наявність або відсутність попереднього досвіду протиправної поведінки правопорушника, місця вчинення кримінального правопорушення (сільська місцевість або середовище великого міста). У статті обґрунтовано необхідність включення до структури методики таких структурних елементів: «взаємодія з державними та громадськими органами, установами та організаціями з питань запобігання та протидії домашньому насильству та насильству за ознакою статі» та «профілактична діяльність слідчого в кримінальних провадженнях, пов'язаних із домашнім насильством». Також визначено, що ефективність методики обумовлена взаємозалежністю проведення слідчих (розшукових) дій, дотриманням етапності розслідування та своєчасністю залучення до нього відповідних спеціалістів. Такі елементи, за умови правильної послідовності, об'єднання утворюють методику розслідування зазначеної категорії кримінальних правопорушень. Практична цінність роботи полягає у формуванні дієвої програми, плановості дій слідчого не лише з метою встановлення обставин події, а й встановлення причиново наслідкового зв'язку між домашнім насильством та іншим кримінальним правопорушенням

Ключові слова:
криміналістична характеристика; спеціальні знання; тактика розслідування; слідча ситуація; протиправна діяльність

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Prejudice on discretion in law enforcement of financial legal provisions

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Abstract
Imperfection of procedure for implementing prejudice during the judicial review of cases could cause instability of practice, which indicates relevance of the research topic regarding formulation of clear criteria for the mechanism of applying prejudice at one's own discretion in the enforcement of financial provisions of law. In view of the above, the purpose of the article is to identify peculiarities of discretionary powers bias in enforcement of financial provisions of law. The basis of the methodological toolkit is general philosophical (dialectical, hermeneutic), general scientific formal (empirical in the form of observation, description and comparison; axiomatic; hypothetical-deductive; formalization; unity of historical and logical) and specific scientific methods (formal-logical; comparative-legal; system-structural), as well as the methodology of revocation and monitoring of a preliminary judgment, which allows to investigate theoretical and practical issues of discretionary powers in the enforcement of financial and legal norms in unity of their substantive component and external form of reflection. Classification of prejudice has been proposed by: level of law enforcement; legal force of prejudice; meaning of established factual circumstances that are included in the subject of proof; nature of accusation; subject. The psychological dimension of using prejudicial categories has been studied as a metacognitive activity for establishing and taking into account values of prejudice in view of accuracy of empirical generalizations, formulating judgments to identify future consequences of decision-making with prejudicial categories given in the original decision. The article outlines the mechanism for implementing legal policy regarding the use of financial prejudicial categories, which should be based primarily on the instrumental and procedural characteristics of this model of legal influence. It has been established that in the organizational and legal aspect, conditions for the entry of the national market segment into the cross-border space are formed by streamlining interaction procedures of the subjects of legal relations through appropriate forms of legal influence. The practical value of the results is that they could be used to determine the procedure for using prejudice at the supranational and national levels, in particular, in the context of applying the practice of the Court of the European Union

Keywords:
legal framework; legal regulations; functions of law; legal interpretation; evaluation; preliminary categories; atypical regulations

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Introduction

The relevance of the subject under study concerns the insufficiently developed normative prescriptions related to the establishment of the impossibility of appealing against the existence of already proven facts, which have been assessed and consolidated in a legal act that has entered into force. The imperfect procedure for implementing the prejudice during the judicial resolution of cases could cause instability of practice, which proves the urgency of formulating clear criteria for the mechanism of applying the prejudice on discretion in law enforcement of financial legal provisions.

The anthology of legal thought about the relevant concepts shows the emergence of new substantive characteristics of prejudice as: properties of individual legal phenomena; reception of legal equipment; act of law enforcement; intellectual and volitional activity of proving; the fact established by the court; a conclusion made by one court, which is binding. At the stage of modern and postmodern of legal intelligence, common features of prejudice are its presumed truth and universality in the consideration and resolution of cases in which the relevant legal facts are investigated with the participation of the same persons or persons in respect of whom the circumstances are established. This means that the use of preliminary categories excludes the possibility of refuting the legal credibility of an already proven fact. That is, the establishment of a legal fact based on the results of verification and evaluation indicates its establishment (presumption of truth), which does not require a new proof.

The latest doctrine presents narrowly profiled areas of interpretation of discretion in the application of financial provisions of law. According to the approach regarding the separation from the abuse of the right, this category is considered by the controlling authorities and payers in the context of tax regulation as not identical to the concept of abuse of the right, i.e. the purposeful action of the subject of tax legal relations considering the exercise of a legally established subjective right contrary to the interests of the tax legal regulation, causing damage or creating a real threat of causing it to the rights and legitimate interests of other subjects of legal relations (Makukh, 2019).

The "statutory" approach rests on the assumption that such discretionary powers should be limited by law (Huivan, 2019). As for procedural discretion, such an opportunity of an administrative court, which considers and decides a case, regulated by the norms of administrative procedural law, and based on the norms of substantive law and factual circumstances, is connected with the adoption of a procedural decision of own choice (Bevzenko & Panova, 2018).

The axiological approach is reduced to the psychological concept of common sense during law and order enforcement, when discretion is to be exercised reasonably and pursuant to the objective circumstances of the case as a manifestation of the normatively established freedom in the exercise of powers by public administration bodies (Khanova, 2018).

As for the approach of pragmatism, it is about analytical, intellectual, creative activity within the limits and method established by the legislation, the subject authorized by the law to apply a possible variant of behaviour, by evaluating the actual circumstances of the case to fulfil a legitimate goal in compliance with the principles of the rule of law, justice, prudence, efficiency, with subsequent selection of the optimal solution in a specific administrative case (Zherdiev & Mikhailina, 2018).

Researchers turn to the definition of legal issues (Kuftyriev, 2018), issues of a reasonable balance (in terms of exercising discretion) between public and private interest to ensure the achievement of the objectives of legal regulation, i.e., the free choice of decision-making without the need for reasons for making such a decision (Krasovska, 2020).

The doctrine emphasizes that both transparency and security are crucial (Leerssen & Mooij, 2023) when exercising the prejudice within the application of financial provisions of law. Data protection legal framework covers financial intelligence units (Brewczyńska, 2021), helping to prevent discrimination (van Bekkum, 2023), when connecting blockchain and artificial intelligence as two distinct technologies (Eszteri, 2022).

The purpose of the paper is to reveal the features of prejudice on discretion in law enforcement of financial legal provisions. The research tasks cover defining the essence, basic characteristics, functions, and types of the prejudice, algorithms to establish appropriate procedural limits for discretion in law enforcement of financial legal provisions.

Materials and Methods

The research deals with using contemporary general philosophical, general scientific and specific scientific instruments. The choice of these tools of knowledge is determined by a systematic approach. This provides an opportunity to explore theoretical and practical issues of discretion in law enforcement of financial legal provisions in the unity of their content component and external form of reflection.

General philosophical methods (dialectical, hermeneutic) have been used to reveal the procedural dimension of prejudicial application of financial legal provisions.

The main group of formal methods has been used in the article as general research methods. General research methods of theoretical research (axiomatic, hypothetical-deductive, unity of the historical and logical, formalization) have been used in the coverage of studies on the issues of the formation and development of this legal institution. General research methods (analysis and synthesis, induction and deduction, abstraction and generalization, analogy) have been used when clarifying the fundamental dimension of the prejudicial categories.

As for specifically research methods of scientific knowledge, the article is based on a formal-legal method to characterize the normative dimension of prejudice; the comparative legal method in relation to research studies of the issues of formation and development of this legal institution; system-structural method regarding the procedural measurement of prejudice in the discretionary application of the financial legal provisions.

Results and Discussion

The essence and procedure of implementing the prejudice

It is possible to distinguish between objective and subjective limits of prejudice on discretion in law enforcement of financial legal provisions. The objective limits include the facts established by the relevant procedural act, which were not subject to proof. The subjective limits are the range of persons to whom the preliminary categories apply. Preliminary categories are atypical regulations that declare the establishment of legal facts as proven, i.e., those that have passed the assessment, the results of which cannot be challenged, and have entered into force. This means that the circumstances, set out in such an act, are considered binding in cases where the subject of the investigation is under the same circumstances. In this way, the prohibition of re-evaluation of already proven and evaluated facts is implemented. As a result, procedural savings are achieved.

The judiciary interprets preliminary categories similarly (Fig. 1). The Supreme Court has specified that the prejudice is a binding nature of the facts established by a court decision, which has entered into force, in one case for the court in other cases. Preliminary significance is not the legal conclusions of the court, but the circumstances (facts) established by the court in another case[1]. The conclusions of the courts on the rights and obligations of the parties are not prejudicial to other courts in their consideration of cases involving the same persons or the person in respect of whom these circumstances are established.

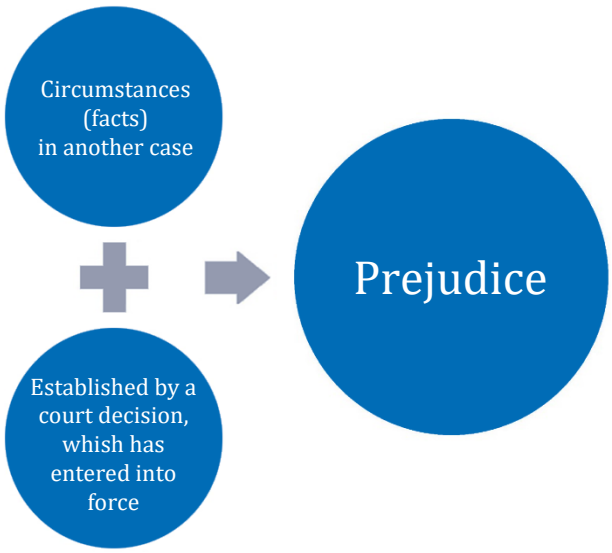

Figure 1. Interpretation of prejudice
Source: developed by the author based on the results of Supreme Court's practice in the case No. 160/5671/21[2]

Among the features of prejudice in law enforcement of financial legal provisions, there are the following: at least one obligatory participant is to be the same person in respect of whom the relevant factual circumstances have been established (the subject composition might not be completely identical, but the person who did not participate in the case with the established preliminary categories has the right to refute such circumstances); legal facts and compositions are established by a court decision of a court of any jurisdiction and instance of the judicial system; a court decision of both intermediate and final nature, in which preliminary categories are formulated, is to enter into force; the facts established in the motivating and/or operative parts of the court decision, concerning the presence or absence of which a dispute has arisen, shall have preliminary significance; exceptions in the practice of law enforcement of preliminary categories are established in procedural or substantive law.

Prejudicial categories in the application of the provisions of financial law affect the process of conducting administrative proceedings regarding the bindingness

[1]Resolution of the Supreme Court No. 160/5671/21. (2022, August). Retrieved from https://reyestr.court.gov.ua/Review/105577291.
[2]Ibidem, 2022.

for all other bodies of judicial power of conclusions about the facts established by court decisions that have entered into force. In fact, it is about the axiomatic truth of such circumstances within the scope of the proof procedure in another court case. At the same time, in the practice of administrative proceedings, a detailed mechanism for implementing prejudiciality has not yet been regulated, so judges interpret the specified category quite broadly, sometimes expanding its meaning.

Psychologism in the use of preliminary categories is to be conditioned by the elimination of discrimination by ethnic, racial, national, or religious parameters, through group identity, etc. To this end, we could use the methodological tools of evolutionary game theory to study the dynamics of discriminatory behaviour, formation of cooperation strategy (Whitaker *et al*., 2018). It is necessary to avoid favouritism. Thus, it is possible to maintain a "balance" between such fundamental principles as autonomy, independence, universality and consistency of decisions, competition and dispositiveness. Similar potential consequences should arise for future autonomous artificial intelligence systems in the administration of justice, specifically in human-machine interaction (Barikova, 2021). This will reduce the bias of the parties in consideration and resolution of the case. As a subject of law enforcement or law-making, one must think globally, which is an imitation of social pluralism.

From the stated provisions on the essence and features of the prejudicial categories, their functions follow as regulatory, protective, and defensive. In the protection of legal relations, these functions have a preventive nature in relation to the prevention of procedural abuse. The protective dimension is manifested in the consequences of committing illegal acts, i.e., torts, non-performance or improper performance of duties within the procedural discretion. The balance between security and protection measurements is maintained by the regulatory function of prejudice. Coordination and purposeful activity of law enforcement entities regulates public relations in the direction of compliance with the rules of conduct established by law, taking into account the appropriate and lawful scope of competence according to the established preliminary categories.

There is a variability of prejudicial categories in the discretionary application of law. Their classification by such criteria could be practically useful: according to the level of law enforcement: supranational (decisions of the European Court of Human Rights, which are the basis of another court decision); national (intersectoral and sectoral); by the legal force of prejudice: normative and administrative acts, final court decisions, especially, homogeneous, the facts established by the act of the subject of public administration; under the value of the established factual circumstances which are part of the subject of proof: procedural and legal; by the nature of the accusation: accusatory; acquittals; according to the subject.

The psychological dimension of the use of prejudicial categories in the application of law is primarily due to the limits of discretion, considering the public interest. As a rule, it is the issue of applying the *PRAM methodology*, i.e., Pre-judgment Recall and Monitoring. This methodology is a metacognitive activity to establish and take into account the values of prejudice given the accuracy of empirical generalizations, formulating judgments to identify future consequences of decision-making with the prejudicial categories given in the original decision. The influence of decisions through direct or indirect reciprocity is to be considered within the discretion. In the first case of reciprocity of decisions, the subject of law enforcement is bound by the provisions of the law. In the second case, the preliminary nature of the next decision is considered, provided that there is a connection between the established legal facts and compositions, as well as legal relations with the circumstances of the derivative case with the participation of the same entities.

The relevant judicial practice of the Supreme Court has been highlighted regarding the characteristics and limits of prejudice. Preliminary categories affect the process of applying the provisions of financial law regarding the binding nature of all other subjects of law enforcement. It is a question of axiomatic truth of such circumstances within the procedure of proof. As a rule, prejudice is based on the rule of taking the facts into account from the standpoint of their legality and validity as established circumstances, relevant to the resolution of the case. At the same time, this kind of legal assumption could be refuted in case of newly discovered circumstances or in view of other grounds regulated by law. In addition, the subject of law enforcement is not bound by the legal assessment of the preliminary categories provided by these facts in other cases. All this complicates the law enforcement process and sometimes leads to errors that violate the rights and legitimate interests of the individual.

The mechanism for implementing the legal policy in the use of preliminary categories

Considering the mechanism for implementing the legal policy in the use of preliminary categories, it should be based primarily on the instrumental and procedural characteristics of this model of legal impact. In addition, given the regulatory core of the financial law, the quintessence of the relevant mechanism is its administrative and legal dimension. In this perspective, the mechanism of legal policy implementation is to be considered as a dynamic category. This approach in the legal doctrine is perceived as a dynamic administrative and legal regulations affecting the anatomy of legal reality, legal substance through the elements of the legal system that are subject to regulatory impact.

For example, the qualification of circumstances as prejudicial is related to the right of the court during

the consideration of the case based on them to independently qualify the behaviour of a person and to reach its own conclusions regarding the legality of such behaviour with the appropriate application of the necessary material and legal norms (Fig. 2). The prejudicial nature of the circumstances of the case established in the court decision, which has become legally binding, is also revealed in the fact that the court takes such circumstances into account, even if this court decision was not actually executed[1].

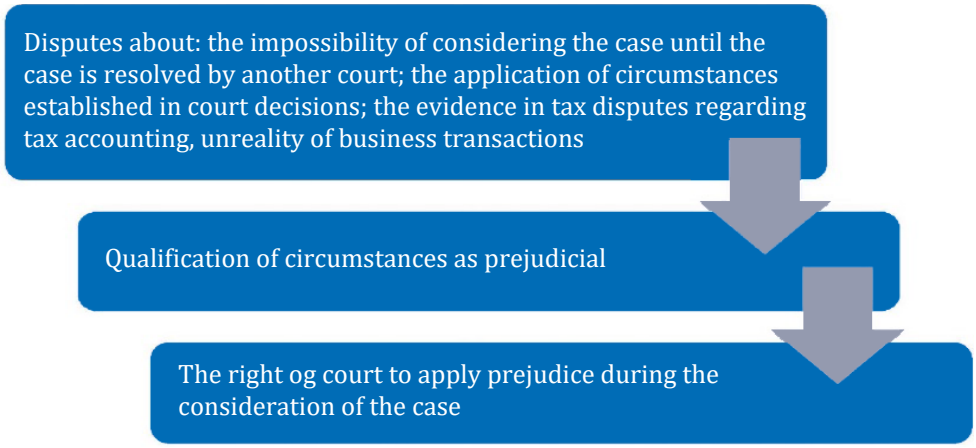

Figure 2. The prejudicial nature of the circumstances of the case
Source: developed by the author based on the results of the Supreme Court's practice in the cases No. 160/4454/20[2], 480/1390/19[3], 808/2099/17[4], 823/865/16[5], 826/17523/15[6]

The current level of implementation is to determine the motivational orientation, taking into account the needs and interests of subjects of the financial law. The system of value orientations of such subjects apropos the pursuance of the mechanism for implementing the legal policy should reflect the anthropo- and sociocentric orientation of the law based on the dominant value-motivational, as well as rational and emotional aspects of the worldview and motivation of the subjects.

Hence, the mechanism for implementing the financial policy is to be understood as functional elements, legal relations and tools that structure the conduct rules for the subjects of the financial law, specifically, in the implementation of public governance to achieve the goals and objectives of the rule of law, ensuring the lawful behaviour of subjects, their administrative legal personality and fulfilment of public interest to ensure unhindered access to the competitive market and the provision of appropriate quality services. The constituent elements of this mechanism in the second phase will ensure the proper regulatory framework for public interest and competition.

In detailing the mechanism for implementing the legal policy, such a mechanism in the administrative and legal dimension responds not only to regulatory but also to doctrinal characteristics. This is due to the need for the primary formulation of theoretical postulates of the rationale for updating the procedural and substantive aspects of the financial functioning.

The dogmatization of the financial law in terms of the markets convergence might affect the implementing the legal policy in this area. This contributes to the implementation of progressive international approaches at two levels, i.e., "basic" and "current". Within the framework of the "basic" level, there are rules of law, crystallized throughout the civilizational development of society, which objectively exist and act separately from the changing factors, the will of individuals and are reflected in the principles of law (the basis for the formation of the "current" level and the objective factor of the integration process). The substantial component of the "current" level is determined by the level of legal awareness, culture of society, state forms, law-making activity. Therefore, in the context of the integration processes, it is appropriate to unify the implemented legal policy in such a way as to take into account the supranational law principles in terms of reducing, and in eventually eliminating the gap between the "basic" and "current" levels of the legal system. The indicated proposal could be implemented making allowance for the criteria for understanding the essence of the categories "rule of law", "law", "legal", etc., as well as the "basic" level of the financial law system.

[1]Resolution of the Supreme Court No. 480/1390/19. (2022, January). Retrieved from https://reyestr.court.gov.ua/Review/1030299236
[2]Resolution of the Supreme Court No. 160/4454/20. (2022, December). Retrieved from https://reyestr.court.gov.ua/Review/108025526.
[3]Resolution of the Supreme Court No. 480/1390/19. (2022, January). Retrieved from https://reyestr.court.gov.ua/Review/103029923.
[4]Resolution of the Supreme Court No. 808/2099/17. (2022, May). Retrieved from https://reyestr.court.gov.ua/Review/104340916.
[5]Resolution of the Supreme Court No. 823/865/16. (2019, December). Retrieved from https://reyestr.court.gov.ua/Review/86504399.
[6]Resolution of the Supreme Court No. 826/17523/15. (2022, November). Retrieved from https://reyestr.court.gov.ua/Review/107251359.

Supranational and national dimensions of prejudice
In the international legal dimension, the legal policy is to be guided by the rules of international law, namely supranational laws. These rules should be implemented in the national financial law, including with the aid of participants in international legal relations. In the future, the constitutional and legal dimension of the mechanism for implementing the legal policy is to be involved regarding the convergence of markets. Moreover, it is important to take into account the constitutional provisions, as well as political decisions on the digitalization of such legal policy. The parliament and the government of the country concerned should be key actors in this process.

Henceforth, the described mechanism is to "descend" to the administrative and legal dimension. Here, through the rule of law, the subjects of public administration, as well as the subjects of delegated powers in institutional and procedural terms, affect the interests of all subjects. In addition, this dimension is closely related to the private law dimension of the mechanism. At the same time, none of these "static" material national dimensions of the mechanism for implementing the legal policy could be implemented without taking into account the procedural dimension. The latter provides the dynamics of pursuing the institutions, especially, through the institution of administrative justice for resolving the conflicts between the subjects of public administration and entities of private law, as well as the institute of administrative justice for consideration of cases and adjudication by a competent court.

Within discretional dimension, a digisprudence is being established as the design of legitimate code (Diver, 2021), when law, authority, and respect are three waves of technological disruption (Brownsword, 2022). Algorithmic regulation leads to appearance of a new "Lex Ex Machina" concept (Pečarič, 2021), when it is urgent to adopt the Artificial Intelligence Act (Hacker, 2021). Artificial intelligence is to be considered as a service with legal responsibilities, liabilities, and policy challenges (Cobbe, 2021). However, AI-based decisions could lead even to disappearance of law (Razmetaeva & Satokhina, 2022).

In fact, it is suitable to find a balance between the harmonization of the regulatory array, the performance of rights and legitimate interests of the subjects and ensuring the synchronism of a discretionary development process. Through such factors, the relevant conditions for the digitalization and protection of the rights, freedoms and legitimate interests are institutionalized. In the organizational and legal perspective, this point of view means that the conditions for the entry of the national market segment to the cross-border space are formed by streamlining the procedures for the cooperation of subjects in legal relations, through the corresponding forms of legal influence with the use of proper methods.

Deviation from prejudice might be justified if there is a need for a "live" transition to interpretation, filling gaps and open "legitimate" completion of the law. Relevant changes are to be implemented in a natural, gradual, and coordinated manner. It is possible to offer such order of overcoming of legal force of prejudicial. The general obligation of prejudice is conditional. The standard legitimate way to reject a prejudice is to review decisions on legality and reasonableness when making them. Confirmation of the error "cancels" the preliminary nature of such a decision (Barikova, 2020). If the draft decision contradicts the preliminary categories given in another decision that has entered into force, it is necessary to review unacceptable legal facts and compositions. For example, these might be procedural abuses, artificial distortion (creation or forgery) of evidence, etc.

Conclusions

Consequently, it is necessary to assess the preliminary relationship between decisions on the established legal fact or composition, consequences or requirements arising from the same legal relationship in the original process. Such prejudice applies to the cases of application of law on: 1) the emergence, change or termination of basic legal relations in the primary process, affecting the use of prejudicial categories in derivative legal relations in the next process; 2) the emergence of a legal relationship not generated by the primary relationship, which contains interdependent substantive provisions of law; 3) the recognition of a claim for a conviction due to confirmed preliminary categories by a primary court decision, etc.

As a general conclusion regarding the preliminary application of the provisions of financial law, it follows that prejudice in law enforcement is obligatory on the basis of the rule of law. Deciding in the next process is not possible without making a final decision in the primary process, the consequences of which determine the decision of a particular case. Optional prejudice is possible in the consideration and resolution of disputes in the absence of a binding reference for a preliminary ruling. The preliminary nature of the next decision will be manifested in the formulation of a legal position on the confirmation or refutation of legal facts or compositions, legal relations given in the decision, which entered into force, provided that they are related to the circumstances of the case involving the same participants. Thus, there is a legal fiction of independent establishment of the circumstances of the case, which are the subject of proof.

Prospects for further research are related to establishing procedural features of applying the prejudice during the resolution of certain categories of disputes regarding taxation and the implementation of public financial policy. In the context of the European integration of Ukraine, it is necessary to pay attention to the potential possibility of applying the practice of the Court of Justice.

Conflict of Interest

None.

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None.

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Преюдиція щодо дискреції в правозастосуванні норм фінансового права

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Анотація
Недосконалість порядку реалізації преюдиції під час судового розгляду справ може спричинити нестабільність практики, що свідчить про актуальність теми дослідження щодо формулювання чітких критеріїв механізму застосування преюдиції на власний розсуд у правозастосуванні норм фінансового права. З огляду на зазначене, метою статті є виявлення особливостей упередженості дискреційних повноважень у правозастосуванні норм фінансового права. Основу методологічного інструментарію становлять загальнофілософські (діалектичний, герменевтичний), загальнонаукові формальні (емпіричний у вигляді спостереження, опису та порівняння; аксіоматичний; гіпотетико-дедуктивний; формалізація; єдність історичного та логічного) та конкретно-наукові методи (формально-логічний; порівняльно-правовий; системно-структурний), а також методологія відкликання та моніторингу попереднього судження, що дає можливість дослідити теоретичні та практичні питання дискреційних повноважень у правозастосуванні фінансово-правових норм у єдності їх змістової складової та зовнішньої форми відображення. Запропоновано класифікацію преюдиції: за рівнем правозастосування; за юридичною силою преюдиції; за значенням установлених фактичних обставин, що входять до предмета доказування; за характером обвинувачення; за предметом. Досліджено психологічний вимір використання преюдиційних категорій як метакогнітивну діяльність для встановлення та врахування цінностей упереджень з огляду на точність емпіричних узагальнень, формулювання суджень для виявлення майбутніх наслідків прийняття рішень з преюдиційними категоріями, наведеними в первісному рішенні. У статті окреслено механізм реалізації правової політики щодо використання фінансових преюдиційних категорій, який має ґрунтуватися насамперед на інструментально-процесуальних характеристиках такої моделі правового впливу. Встановлено, що в організаційно-правовому аспекті умови для входження національного сегмента ринку в транскордонний простір формуються шляхом упорядкування процедур взаємодії суб'єктів правовідносин через відповідні форми правового впливу. Практична цінність результатів полягає в тому, що їх може бути використано для визначення порядку використання преюдиції на наднаціональному та національному рівнях, зокрема в контексті застосування практики Суду Європейського Союзу

Ключові слова:
правова база; правові норми; функції права; юридичне тлумачення; оцінка; настановні категорії; нетипові положення

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Strategic communications as a component of state information security

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Abstract
The formation of the information society at the current stage is defined by an active process of information exchange and communicative interaction at various levels - interpersonal, between social groups, strata, and countries. In addition to constructive characteristics, the specified process is characterized by a number of risks that face the information security of states and are aimed at violating human rights and freedoms, undermining established democratic traditions and authority on the geopolitical map of the world. This testifies to the relevance of the study of strategic communications as a guarantee of the reliability of the security sector. In view of the above, the purpose of the article is to study the features of communicative interaction at the strategic level in the context of information security of the state. The basis of the methodological toolkit was dialectical and sociocultural methods, as well as systemic, informational and functional approaches, thanks to which it was possible to present strategic communications as a living and open system, the elements of which interact with each other and depend on the cultural and historical conditions of society. The key threats facing information security in the context of communicative interaction at the strategic level are the use of aggressive rhetoric, the production of false information flows, the spread of fake content, myth-making and attempts to rewrite history. The essence of russian information campaigns, which are carried out by means of disinformation, and the experience of the EU and Baltic countries in countering them are considered. Ukrainian realities have proven the rationality of building strategic communications on the basis of public trust in the subjects of information production, given that, in addition to representatives of the diplomatic corps and representatives of the security sector, active participants in this process should be experts from among scientists and civil society in general. The practical value of the results is that they can be used to determine ways to build a national system of strategic communications and create an institution to coordinate this activity at the interagency level

Keywords:
communication; information; war; narrative; diplomacy; politics; disinformation; fake

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Introduction

In the conditions of economic destabilization and political turbulence, which marked the beginning of the 21st century, the battle for an information resource, the search for ways to counter information aggression, cyber threats, etc., are of priority importance. Thanks to virtual communication, the accessibility of social networks, and the constant adaptation of media to new conditions and requests from the world audience, contemporaries are witnessing an information confrontation between strategic communicators from different countries. The investigation of the subject under study is updated considering the intensification of the struggle in the information space, the so-called information war, one of the optimal tools for countering which can be the system of information and communication measures, the application of which at the strategic level can establish in the individual and mass consciousness certain ideas that will positively resonate with national interests.

Information security also faces new threats related, among other things, to total digitalization, which, apart from positive aspects, according to modern scientists, serves as a tool for violating the sovereignty of democratic states, interfering in election processes, and using cyberspace to spread "deep fakes" (Paterson & Hanley, 2020), efforts to maintain dominant influence in certain communities and regions by spreading disinformation, to establish a kind of "safety belt" from other subjects of international relations (Sheremet *et al*., 2021).

This confirms the relevance of investigating the features of communicative interaction at the level of public diplomacy, military relations, information operations aimed at promoting the goals of the state, relations with the media, i.e., the so-called strategic communication.

The demand for this issue is indicated by a wide range of modern studies on this issue. For instance, M. Khan and K. Pratt investigated the composition of strategic communications through social media, their potential in countering terrorism, specifically through the use of frames (Khan & Pratt, 2022). R. Arcos and H. Smith highlight the threats of using information operations by hostile authoritarian actors aimed at spreading discord between partner countries and interfering in democratic processes (Arcos & Smith, 2021). According to these researchers, in the context of hybrid warfare, the enemy, encroaching on information security, uses the media to create certain cognitive and emotional reactions among people who, due to their nature, make decisions based on their ideas about the world and information available through interpersonal symbolic interactions.

In addition, worthy of attention are the results of the development of information security policy principles proposed by H. Paananen, M. Lapke and M. Siponen (2020). Having considered the modern developments of internet service providers, these authors concluded that when defining the means and tools of strategic communication interaction, it is necessary to focus primarily on the needs of information security related to a particular organization. The importance of the role of information technologies in building communication strategies is also emphasized by M.V. Cavelli Mauer and S. Krishna-Gensel (2013).

Despite the wide range of such studies, certain aspects of the subject related to today's challenges are still understudied, given that the purpose of this study was to determine the essence of strategic communications, their role in ensuring the information security of the state. To fulfil the said purpose, the following tasks were to be completed: to highlight the main threats to information security of the state related to strategic communications, to cover the potential of the latter to overcome hybrid threats using evidence from Ukraine, to determine the optimal tools for their construction at the international level.

Literature Review

Recently, the study on this subject has become more active in the Ukrainian scientific space, which is a response to the challenges that the security sector faced after the invasion of the russian federation on the territory of Ukraine. For instance, a comprehensive approach to the investigation of strategic communications was proposed by representatives of the scientific school of the National Academy of the Security Service of Ukraine on strategic communications. The manual prepared by them (Kompantseva, 2022) contains quite practical recommendations for employees of state institutions of tactical and operational direction.

Presently, the security potential of strategic communications is quite thoroughly covered in the context of the problems of information warfare (Chen, 2022; Makarenko, 2022), specifically cyber warfare and the "digitalization of the battlefield" (Siroli, 2018). The study by M. Libicki "What is an information war?" constitutes a significant theoretical basis for the development of the subject under study (Libicki, 1995), which describes in detail the types of information warfare (command and control, psychological, economic, hacking, cyber warfare, intelligence, etc.). At the same time, such conclusions were made by the theorist at the end of the 20th century. Today, we are dealing with a symbiosis of all these forms of information warfare, which involves the use of elements of all forms, with which the specified researcher actually agrees in his latest works, where, according to him, all elements of information warfare should be perceived as a whole, especially during military operations (Libicki, 2020).

Examining the outlined issues in more detail, some scientists pay attention to the impact of the communicative component of information warfare on the ontological component of human security in the modern era (Bolton, 2021); communicative interaction based on the strategic use of fear appeals within the limited confidence model (Scheller, 2019).

Worthy of attention are studies investigating the concepts of strategic communication of influential people in modern social media (Enke & Borchers, 2019). The authors fairly note that the activities of these entities are an effective tool for building an optimal model of strategic actions of the state at the international level.

In the context of the problems under study, the conclusions of modern scientists regarding the controllability of the process of building strategic communications are valuable, namely the use of information technologies to analyse the effectiveness of communication against the background of the requests of a certain audience (Müller & Braun, 2021). At the same time, investigating the tools for building discursive practices, R. Andersson defines the praxeological component of building strategic communications, their direct ability to form a certain way of vision, to have a constructive impact on the public (Andersson, 2020). O. Hoffjann interprets strategic communication as a game where participants, like actors in a play, define communicative interaction in the context of post-truth (Hoffjann, 2021). The scientist suggests a theoretical approach where strategic political communication is played out as a play in which entertainment is more important than mandatory.

The performed analysis indicates considerable developments on this issue. Despite this, the characteristics of strategic communications and their potential in ensuring the information security of the state in the face of modern threats facing democratic states are still understudied, which confirms the timeliness of the present study.

Materials and Methods

The fundamental component of the methodological tools was the dialectical method, which allowed investigating the contradictory manifestations of reality in their interrelation and interaction, especially when it came to communicative factors and cause-and-effect relationships between them, differentiation and integration processes. This is especially noticeable in the variability of building strategic communications, the criterion of which is the discrepancy between the needs of society and the existing model of communicative interaction, the relationship between the objective and subjective factors in its construction.

Given the fact that the study of any social phenomena involves their consideration in relation to the cultural environment, the specific features of the development of humankind at a certain historical stage, the present study required the use of a sociocultural method, which allowed considering communicative interaction in the broad context of civilizational processes, considering historically formed political traditions, beliefs, values, without losing cultural identity.

The system approach allowed analysing the object of the study through the components of the system and their relationships within a particular organizational structure. As is well known, strategic communications constitute, on the one hand, a system of ideas, opinions, and beliefs that form a background on which interaction unfolds at the international level in the sphere of politics, economy, culture, etc., and on the other hand, a system of institutions, subjects of interaction, which determine the rules and the subject of this interaction. Moreover, the role of the subjective factor in the conditions of the global information space is constantly growing because the rational use of the information resource can ensure the management of public opinion and even change the value system.

The study of the essence of strategic communications in the context of informatization also involves the use of an information approach that can present the comprehensiveness of the system of communicative interaction through the lens of the concepts of content production, disinformation, post-truth, manipulation, etc.

Since strategic communications are a process of synchronizing certain actions, ideas, and expressions to fulfil a set purpose, it was appropriate to use a functional approach that can reflect the dynamics of the object under study, which is implemented in a synchronous context. Furthermore, this study required the use of elements of the statistical method, namely in calculating the level of trust in the media, governments and public organizations based on the quality of information.

Results

The doctrine of strategic communications. Even though the problems of strategic communications are acutely felt in most countries, at the current stage the authors of this study are primarily interested in the experience of Ukraine, which, according to the influential British weekly "The Economist" (Our country, 2022), considering the dynamics of socio-political changes and characteristics, became the country of the year – 2022, having demonstrated to the whole world an exemplary resistance to terror, including on the information front and, above all, by establishing strategic communications with the world community, determined to affirm democratic values.

This area in Ukraine is regulated by several doctrinal documents that directly or indirectly relate to the issue under study. These are, for example, the Concept of Strategic Communications of the Ministry of Defence of Ukraine and the Armed Forces of Ukraine[1], the Information Security Strategy, approved by the Decree of the President of Ukraine No. 685/2021 dated December 28, 2021[2], the Road map of the Partnership in the field of strategic communications between the National

[1]Order of the Ministry of Defence of Ukraine No. 612 "On the Concept of Strategic Communications of the Ministry of Defence of Ukraine and the Armed Forces of Ukraine". (2017, November). Retrieved from https://zakon.rada.gov.ua/rada/show/v0612322-17#Text.
[2]Decree of the President of Ukraine No. 685/2021 "On Information Security Strategy". (2021, December). Retrieved from https://www.president.gov.ua/documents/6852021-41069.

Security and Defense Council of Ukraine and the International Secretariat of NATO[3], etc. Despite the availability of certain documents, the normalization of this area is still ongoing, which relates to new challenges that have arisen before the information security of Ukraine.

The mentioned process is accompanied by institutionalization at the state level – awareness of the importance of strategic communications as one of the key tools for ensuring the political stability and security of the state in general led to the emergence of several relevant bodies, educational and research centres in Ukraine, whose activities are aimed specifically at finding effective ways of promoting state narratives and countering misinformation (Syvak, 2019).

The experience of Ukraine shows that the prerequisite for building an optimal model of strategic communications is their ideological basis, which can be traced both at the local and state levels, in the military and civilian spheres. Complete identity, admittedly, is impossible due to the specificity of structures, but even in the militarized sphere of strategic communications, ideological influence comes first. However, what they all have in common is the ideological component, which is primarily based on the trust of target audiences in both public figures and institutions.

The level of trust is currently affected by the lack of proper coordination of a communication strategy to overcome threats to global and national security of the state. Total disinformation in the network space, speculating on the opinions of pseudo-experts, purposeful production of fake news and systematic information "stuffing", aimed primarily at destabilizing public opinion, emotional injection is a sign that public opinion is largely formed based on the so-called post-truth, when the personal attitude, own beliefs of the consumer of the information product come to the fore, and not the assessment of objective facts and factors. Given the above, there is a crisis of trust in public institutions, which is primarily related to the quality of information. Supporting this author's opinion, the results of the "Trust Barometer – 2022" study, conducted by specialists of the "Edelman" company, who surveyed over 36,000 people from 28 countries of the world (Edelman Trust Barometer, 2022), can be cited.

Trust in strategic communications entities. The analysis of communicative interaction in modern realities proves that the main subjects of the production of strategic communications, the level of trust in which we are interested in, are the government, the media, as well as representatives of non-state institutions and experts from various spheres of life, involved in information exchange. Specifically, among the main factors of the level of trust in the media, such as bringing others to justice, the ability to manage change, the effectiveness of the use of force, communication and transparency, the quality of information occupies a prominent place – the indicator is 6.6% (Fig. 1).

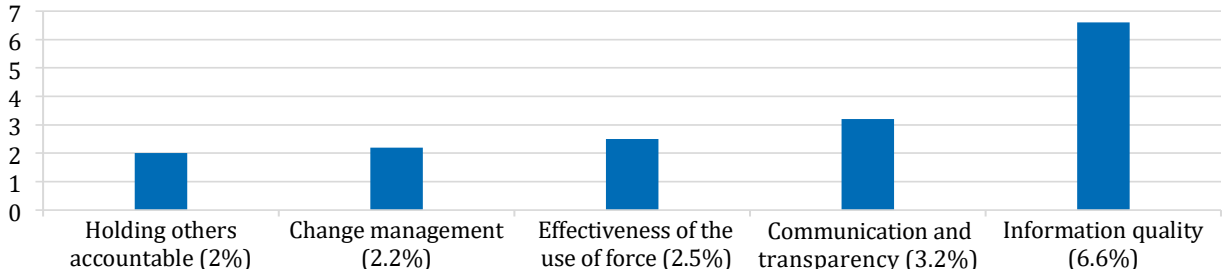

Figure 1. Factors of trust in the media
Source: developed by the author based on the results of a study by Edelman (Edelman, 2022)

No less important was the role of the quality of information flow in the activities of official government agencies (Fig. 2). After all, according to the author, this is a guarantee of the country's authority, a manifestation of trust in established partnership relations, the formation of an international information space that will be optimal for the implementation of the strategic vectors of the national foreign policy and public diplomacy.

The rating of trust in public organizations is noteworthy, since this year their role in public opinion has substantially increased compared to business structures. Here the situation is comparable – the list of the main factors of building trust in this institution is headed by such an indicator as the quality of information (3.2%) (Fig. 3).

Thus, the analysis of the level of trust in the media, governments, and public organizations as key subjects of strategic communications production shows that the basis of its optimal model is trust as a result of the quality of information. At the international level, for instance, specialists from King's College London (2023) and the NATO Center of Excellence in Strategic Communications are working in this direction. Ukrainian scientists also offer recommendations for building a strategic committee based on trust (Kompantseva, 2022).

[3]Road map of the Partnership in the field of strategic communications between the National Security and Defense Council of Ukraine and the International Secretariat of NATO. (2019, April). Retrieved from https://www.president.gov.ua/storage/j-files-storage/00/66/78/b59dbab0d5049ff2cd77cc58800eda5c_1554906510.pdf.

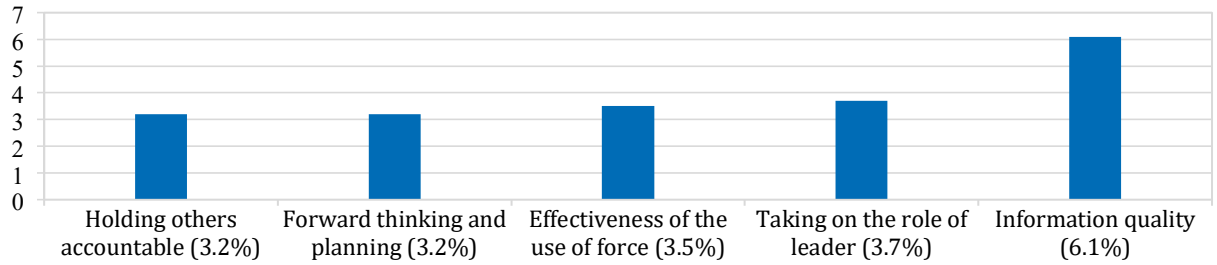

Figure 2. Factors of trust in governments
Source: developed by the author based on the results of a study by Edelman (Edelman, 2022)

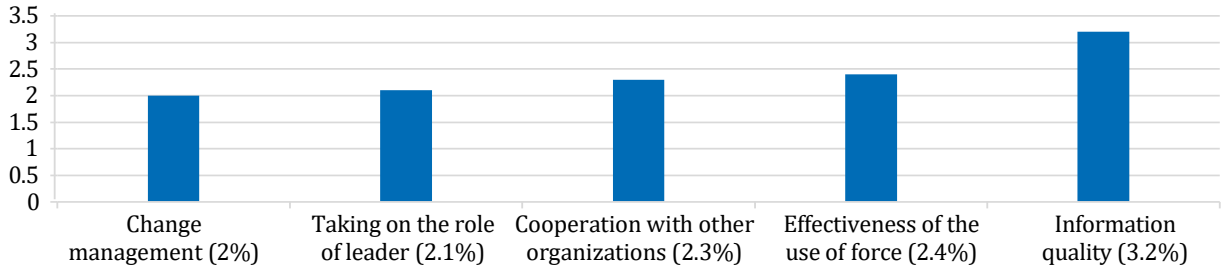

Figure 3. Factors of trust in public organizations
Source: developed by the author based on the results of a study by Edelman (Edelman, 2022)

A key role in this process belongs to particular individuals – leaders in various spheres of life, who influence strategic communications by producing or approving/denying certain content. This is emphasized by N. Enke and N. Borchers, arguing that through social media, such subjects contact an interested audience, disseminate certain information or communicate on social networks, considering the impact on communication interaction, which is of strategic importance for the goals of the organization (Enke & Borchers, 2019).

This refers not only to key figures in the security sector, but also to representatives of certain professional cells. Therefore, during the development of strategic communications, the subject of close attention at the international level should be the sphere of activity of representatives of professions whose level of trust is the lowest. Thus, the results of the "Trust Barometer – 2022" study show that today the least trusted professions include government leaders (42%, which is +9% compared to last year). According to the author, such a low level of treatment for government representatives is conditioned upon general political turbulence, among other things, disregard for democratic values on the part of individual states, as evidenced, e.g., by the deployment of the russian federation of a full-scale war against Ukraine in the centre of Europe. Next in anti-rating are journalists (46%, +8%) and company heads (49%, +7%). The highest level of trust is in scientists (75%), work colleagues (74%), and the direct supervisor (66%). It is these indicators that should be used when developing an optimal model of strategic communications (e.g., actively use scientific analytics as a tool in countering disinformation).

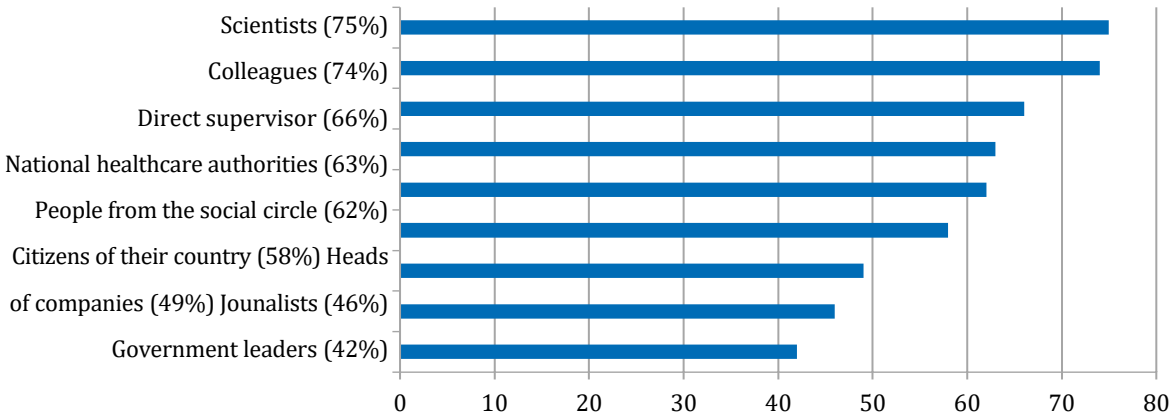

Figure 4. The level of trust in representatives of certain professions/communities
Source: developed by the author based on the results of a study by Edelman (Edelman, 2022)

Discussion

This problem is a popular subject of research by modern scientists. Researchers mostly agree that strategic communications are ambivalent in nature, since, on the one hand, they can serve as a tool of resistance in hybrid wars by undermining the authority of the enemy in the information space. On the other hand, they show a powerful consolidating potential in the geopolitical context, since they allow promoting their interests, establishing a dialogue between countries in a single ideological direction, develop a common vision for further development, and find optimal steps in the affirmation of socio-cultural values. This is also emphasized by Ukrainian scientists in the field of informatization, who believe that strategic communications should be perceived both as a tool in the battle for an information resource and as a means of "harmonizing topics, ideas, images, and actions" (Shtonda, 2018). This is actively facilitated by humanitarian technologies, which, according to the statement of modern researchers (Poltorak *et al*., 2021), contribute to the formatting of the mass consciousness of the population, the formation of a certain public opinion to win the favour of both its people and representatives of other states of the world.

An essential function of communicative interaction at the strategic level is that it allows reaching consensus both at the interpersonal and international levels. After all, the information exchange is accompanied by disinformation, manipulative technologies, and an attempt to distinguish between "friend and foe". As noted in the author's previous studies (Abysova & Antipova, 2019), the modern communication space is reduced to a binary opposition of "I and the other" or "we and the others". Therewith, "other" is traditionally identified with the category "alien", which is determined by cultural-historical, ethnic, and social factors. In this context, "alien" approaches the image of the enemy.

The destructive potential of strategic communications tools is shown primarily in the context of information warfare. This refers to "distorting the information landscape" (Bolton, 2021), distorting national narratives to influence politics, trying to disrupt social ties, using cyberbullying (Hussain & Bandeli, 2018) to sow doubt, uncertainty, and even fear. Thus, according to Scheller (2019), the use of fear in populist rhetoric is the main tool used by political actors to win the favour of ideologically distant groups of voters.

In this context, D. Bolton naturally emphasizes such a feature of the communicative space as ontological insecurity (Bolton, 2021). The cognitive component suffers no fewer losses, as Western experts emphasize (Clack & Johnson, 2021), claiming that the main threats of information warfare, in addition to fake news and disinformation, the use of manipulative technologies, are the undermining of trust and the distortion of the general picture of world perception.

A vivid example of efforts to build a model of strategic communication using disinformation is the conduct of russian information campaigns during the last decade, which researchers have repeatedly stated in relation to the countries of Europe (Wagsson & Hellman, 2018), the Baltic States (Hanley, 2022), the United States (Artamonova, 2022), according to which such attempts to influence world opinion and win the favour of foreign citizens pose a threat to the liberal world order.

The main purpose of using fake information technologies is to spread misinformation among the public, promote certain ideas, encourage aggressive actions, and sow doubts (Svintsytskyi *et al*., 2022). Thus, the full-scale armed invasion of the russian federation in Ukraine is accompanied by disinformation attacks on the information security of the state by media. Researchers of information content fairly argue that the events in the war zone and the general situation in Ukraine affect the main characteristics of russian media reports – they become more eventful, sensational, aggressive, and purposeful. Such active media influence of the subjects of the production of information material is a conscious and pre-planned action, which can be observed starting from the first words of the publications, their titles and leads (Yuskiv *et al*., 2021), which, in the author's opinion, also testifies to a considerable manipulative potential.

The influence of disinformation, as noted by Ukrainian researchers (Konstankevych *et al*., 2022), is currently aimed at creating panic among the Ukrainian population, discrediting the authorities, the Armed Forces of Ukraine, for which the russian media resort to such methods as creating myths, rewriting history, and psychological shock and shifting accents, etc. A striking example is the aggressor state's production of narratives like "russian-speaking citizens suffer from harassment by the Ukrainian authorities".

In the current conditions, countering the destructive manifestations of the subject's communicative activity, which is strategically oriented towards other people, state and non-state institutions or society in general, with the purpose of disrupting the normal functioning of the individual, society, and the state in the long term, is of particular importance.

The opinion of the representatives of the Oxford University School of Anthropology (Clack & Johnson, 2021) is valid regarding the fact that information has now become the "centre of gravity" of the adversary's data exploitation operations. In the context of communication strategies, false information can be used as a source of emotional resonance and even identity reformatting.

In the context of russian-Ukrainian aggression, fakes are also a battle of narratives and cultures. Apart from trying to "polarize the internal narrative debate" (Bolton, 2021), the opponent is trying to promote their narratives. Specifically, the russian federation uses such narratives as: "Ukraine is a fascist state", "illegal seizure of power in Ukraine in 2014", "the government of Ukraine

is a junta", "Ukrainians are Banderovites", "liberation of Ukrainians from nationalists", "the government of Ukraine is subdued to Western politicians", "Western values are anti-humane", etc. To disseminate them, the enemy actively uses accounts managed by bots, which is a low-cost and fairly convenient tool that can quickly spread pro-kremlin narratives.

In modern conditions, the study of algorithms for detecting fake information has been updated, namely, countering targeted propaganda in social networks, building effective systems for detecting fake news (Shtefaniuk & Opirskyy, 2021) or, in general, building a so-called counter-strategy based on the concept of counter-chains for the destruction of disinformation (Dowse & Bachmann, 2022). Thus, one of the priority areas of strategic communications of the European Union is currently countering disinformation produced by the russian media (Wagnsson & Hellman, 2018). For this purpose, for instance, the working group "East Stratcom" was created, the members of which publish weekly reports and analytical articles on this field of activity on the EU vs Disinfo platform. At the same time, active research is underway in the Baltic States to track the coordination of disinformation campaigns by investigating the content of blogs and related social media platforms, such as Twitter, Facebook, YouTube, VK, etc. (Hussain & Bandeli, 2018). Australian researchers are trying to implement a managed information activity strategy, funded by the state and based on specific tactics of dissemination of publicly available information, capable of countering disinformation as a global threat (Hammond-Errey, 2018).

It is useful for Ukraine to adopt examples of the best international practices not only to confront the enemy in the face of Information pressure against the background of armed aggression, but also to develop a unified coordinated approach to building reliable communication strategies as a component of information security. Therewith, an important subject in the Ukrainian reality turned out to be civil society, which demonstrated a total rejection of the narratives of the aggressor state, which affected public diplomacy – it provided the opportunity to develop a strategy of unity to protect democracy and universal values.

Conclusions

Proceeding from the above, the author concludes that one of the most vulnerable areas of the security sector at the present stage is its information and communication component. The results of the implementation of the assigned tasks proved that the main threats to the national information security, related to strategic communications, are information and psychological operations for the distribution of content capable of sowing fear, panic, insecurity in society, depriving the ability to critically interpret content under the powerful pressure of the information flow, undermine trust in authorities and encourage disregard for the rights of others. Furthermore, important negative manifestations are disinformation, spreading fakes and myths aimed at humiliating other peoples and ethnic groups, falsifying history, and producing narratives that justify violating the sovereignty and integrity of other states. Thanks to the technological tools of social networks and total digitalization, these adverse factors lead to manipulation of public consciousness, interference in domestic politics and violation of the foundations of national security.

Ukrainian realities testify that the basis of the optimal model of strategic communications is the ideological component, which determines the public discourse development trajectory in certain socio-cultural conditions, the promotion of a constructive concept at the level of diplomacy of political, security, economic, scientific, and other structures. An equally important prerequisite is the level of trust in strategic communications entities, which now directly depends on the quality of information produced. Considering the study results, experts from among scientists who have the highest level of trust in modern society should become active participants in building communicative interaction at the strategic level. At the same time, it should be borne in mind that today an essential role in these processes belongs not only to the diplomatic corps and representatives of the security sector, but also to civil society.

It is promising to investigate ways to build a national system of strategic communications, identify their comprehensive tools that can factor in all the risks in this area and the existing potential. It is also worth studying the issue of creating an institution in Ukraine that will coordinate the activities of all strategic communications entities and avoid randomness in the search for its optimal model.

Conflict of Interest

None.

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Стратегічні комунікації як складова інформаційної безпеки держави

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Анотація
Становлення інформаційного суспільства на сучасному етапі означене активним процесом інфообміну та комунікативної взаємодії на різних рівнях – на міжособистісному, між соціальними групами, верствами, країнами. Крім конструктивних характеристик, цей процес означений низкою ризиків, які постають перед інформаційною безпекою держав та спрямовані на порушення прав і свобод людини, підривання усталених демократичних традицій та авторитету на геополітичній мапі світу. Це засвідчує актуальність дослідження стратегічних комунікацій як запоруки надійності безпекового сектору. З огляду на зазначене, метою статті є вивчення особливостей комунікативної взаємодії на стратегічному рівні в контексті інформаційної безпеки держави. Основу методологічного інструментарію становили діалектичний і соціокультурний методи, а також системний, інформаційний та функціональний підходи, завдяки яким стратегічні комунікації вдалося представити як живу та відкриту систему, елементи якої взаємодіють між собою та залежать від культурно-історичних умов соціуму. Ключовими загрозами, які постають перед інформаційною безпекою в контексті комунікативної взаємодії на стратегічному рівні, є використання агресивної риторики, продукування потоків неправдивої інформації, поширення фейкового контенту, міфотворчість і намагання переписати історію. Розглянуто сутність російських інформаційних кампаній, які проводяться засобами дезінформації, та досвід країн ЄС та Балтії щодо протидії їм. Українські реалії засвідчили раціональність побудови стратегічних комунікацій на основі довіри суспільства до суб'єктів продукування інформації, з огляду на що, крім представників дипломатичного корпусу та представників сектору безпеки, активними учасниками цього процесу мають бути експерти з числа науковців та громадянське суспільство загалом. Практична цінність результатів полягає в тому, що їх може бути використано для визначення шляхів побудови національної системи стратегічних комунікацій та створення інституції з координації цієї діяльності на міжвідомчому рівні

Ключові слова:
комунікація; інформація; війна; наратив; дипломатія; політика; дезінформація; фейк

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National security and defense council of Ukraine: Administrative and legal status

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Abstract
The relevance of the study is determined by the resistance to the armed aggression of the russian federation, specifically by the security state body – the Council of National Security and Defence of Ukraine, which, to repel the enemy and liberate the occupied territories, activated its operations under the President of Ukraine as the Supreme Commander-in-Chief of the Armed Forces of Ukraine. The purpose of this study was to investigate the characteristics of the administrative legal status of the National Security and Defence Council of Ukraine and provide proposals for improving the status, considering the martial law in Ukraine. Multi-level methods of scientific search were used, the most effective and active among which were the comparative method and methods of analysis. The author of the study summarized and confirmed the scientific originality of the subject under study, as well as outlined several gaps in the legal support of the administrative legal status of the National Security and Defence Council of Ukraine. Specifically, to establish the procedure for the work of this body, it is proposed to approve the Regulation, which currently stays relevant. The expediency of developing and approving a strategically important document in the current conditions – the concept of countering russian aggression and expansion (military and other) – is proved. The author of the study believes that the security state body of the country can initiate a strategy to protect the security of the states of the world, since Ukraine is one of the countries of the world that is currently suffering from the armed aggression of the enemy-neighbour. The practical value of this paper and the conclusions made by the author lie in particular provisions that can be used to improve the effectiveness of the state body under study, especially in conditions of martial law, namely, strengthening the state's defence capability, repelling the perfidious attack of the enemy, improving the functioning of the presidential power, as well as the executive power in general and its branches, especially in ensuring the national security of the state

Keywords:
Supreme Commander-In-Chief; Armed Forces of Ukraine; security state body; defence capability; martial law; power; president; national security

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Introduction

The National Security and Defence Council of Ukraine was established by the relevant Law of Ukraine[1] back in March 1998, i.e., almost two years after the adoption of the Constitution of Ukraine[2] and in the eighth year of Ukraine's independence. Chapter V of the Constitution "President of Ukraine" consolidates the constitutional legal status of this body of state power – the National Security and Defence Council of Ukraine (the NSDC of Ukraine). This refers to the legal norms of an eight-part Article 107 of the Constitution of Ukraine. To implement the provisions of the Constitution of Ukraine[3], the Law of Ukraine "On the National Security and Defence Council of Ukraine"[4] was adopted, which is a model of the constitutional law (Article 107 Part 7)[5] and which consistently, pursuant to the architecture of the mentioned Article, clarifies the rights, obligations, responsibilities and powers, as well as other jurisdictional issues of the activity of this state body, including administrative legal ones.

However, in the modern conditions of military confrontation with the aggressor state of the russian federation, especially after the start of a full-scale invasion on February 24, 2022, the security and defence of Ukraine, their effective and complete provision have become not just critical and urgent, as they were in reality, but the factual condition of the very existence of Ukraine and the Ukrainian people, national identity, the Ukrainian legal philosophy of freedom and, ultimately, the starting point or even the decisive point of stopping the absorption of national and international law as a whole by the unlaw.

The NSDC of Ukraine as a coordinating body of activities to ensure the national security and defence of the country under the President of Ukraine in these conditions – the conditions of martial law and population mobilization, when the role of the President of Ukraine as the Supreme Commander-in-Chief of the Armed Forces of Ukraine as the general and leading unifying force of the nation, as a state creator, has increased, which should adopt the most effective and sometimes unexpected and unprecedented urgent political, legal, and economic decisions, acquires special importance.

The relevance of the subject under study is confirmed by the analysis of recent monographic studies on the coverage of administrative legal regulation of national security and the formation of the law of national security through the subjectivity of the state in the law of national security (Bohutskyi, 2020) and consideration of the component of national security (Kryshtanovych, Pushak & Fleichuk, 2020). V. Smolianiuk (2017) investigated national security systems and systems ensuring the national security. Investigating the mechanisms of state administration in the field of ensuring national security in the countries of the European Union, V.S. Murashko (2020) substantiates the interaction of the Euro-Atlantic and Eurasian security spaces and the development of ways to reform the main security institutions (the United Nations Security Council, the North Atlantic Treaty Organization, the European Union) to avoid duplicating the functions of national security subjects, assuming the probability of creating a "defence of the EU Union" involving Ukraine as a potential partner, which during the period of armed russian aggression proved the combat capability of the Armed Forces of Ukraine, the strength of spirit and will of Ukrainians, as well as experience in protecting not only the sovereignty of the state, but also Europe in general from the aggressor state of the russian federation. The studies of scientists on the definition of "national security" (Kobko, 2022) and the components of Ukraine's national security in conditions of military conflict (Hbur, 2022) deserve attention.

The purpose of this study was to characterize the legal basis of the NSDC of Ukraine, its purpose, tasks, functions, and powers (and the author of this paper sets himself such tasks), to define the concepts and components of the administrative legal status of the NSDC of Ukraine, and considering the wartime conditions, to accumulate proposals for improving the latter.

Literature Review

The issue of the constitutional legal status of the NSDC of Ukraine and certain legal issues of its functioning have been investigated sporadically by scientists, including as follows: V. Antonov regarding the constitutional legal foundations of the establishment and formation of the national security system of Ukraine in the conditions of modern challenges and threats (Antonov, 2017), V. Pashynskyi (2017) emphasizes that the NSDC of Ukraine is an independent specially authorized constitutional body of state power, as it does not belong to any of the branches of government, the NSDC of Ukraine, considering changes in the geopolitical situation, is authorized to submit appropriate proposals to the President of Ukraine, i.e., to "unite" all branches of power(Svyda), signs of the present military-political risks, challenges, and threats that pose a danger to the national security of Ukraine in the border area Trembovetskyi, Hulevatyi (2018), who paid attention to the NSDC of Ukraine precisely as a subject of the country's defence. Ways of responding to challenges to national security in the conditions of a military conflict were proposed by O. Tsevelov (2019), having investigated the practices

[1]Law of Ukraine No.183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text.
[2]Law of Ukraine No. 254k/96-BP "Constitution of Ukraine". (1996, June). Retrieved from http://zakon5.rada.gov.ua/laws/show/254к/96-вр.
[3]Ibidem, 1998.
[4]Law of Ukraine No.183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text.
[5]Law of Ukraine No. 254k/96-BP "Constitution of Ukraine". (1996, June). Retrieved from http://zakon5.rada.gov.ua/laws/show/254к/96-вр.

of the Border Service of Finland, which in peacetime is a law enforcement agency, and in case of an escalation of the situation performs the functions of a military formation as part of the armed forces; the Republic of Azerbaijan, where the composition of the border service includes a military component, a prototype of the border troops situated on the border of the military conflict in Nagorno-Karabakh; Z. Gbur (2022) claims that the margin of stability of economic security decreases more and more every day of the war, which constitutes a high level of threat, but as a result of measures promptly taken by the state, the state of the components of national security stays under control.

The studies of V. Bilyi, V. Mykhalchuk (2021), S. Prokhorenko (2021), A. Kovalchuk (2016) covered the general legal issues of national security of Ukraine and its operational apparatus. L. Kazakova (2022) considered the conceptual and categorical apparatus of national security of the state. F. Medvid (2017) researched the national interests of Ukraine in a globalized world. V. Smolianiuk investigated the component of the state-creative process in Ukraine on ensuring national security (2017; 2018; 2021). These authors with scientific meticulousness, using the hermeneutic method of scientific research, tried to clarify the term "national security", each in their own way, including V. Lipkan (2009), A. Amro (2019) and Ye. Kobko (2022), and others.

The author of the present paper factored in all these approaches in this study. V.S. Murashko (2020) and K. Tarasenko (2016) highlighted the same issues of ensuring national security in the countries of the European Union. Specifically, V.S. Murashko (2020) considered the improvement of the legal foundations, principles, and mechanisms of public management decision-making regarding the activities of public administration subjects in the field of national security. M. Buchin (2018), D.S. Melnyk (2021), A.V. Voitsikhovskyi (2020) addressed the application of information technologies and forecasting in the national security system, while V.S. Andreichuk (2018) and O.I. Poshedin (2019) considered the problems of democratic civilian control over the country's security sector.

T.I. Blistov *et al*. (2015) performed a detailed analysis of the legislative provision of national security; Ya.V. Bazyliuk (2015) investigated the economic security of the state and its provision as a sector of national security in the conditions of hybrid warfare; P.B. Volotivskyi (2020) raises the issue of ensuring the powers of state authorities in the field of mobilization training and mobilization. Thus, recently, either narrow, sub-sectoral, or general issues of national security and defence have been investigated, attempts have been made to improve the terminology concerning the national security, certain proposals have been made to improve the statutory regulation of this sphere of legal relations, individual issues of improving the efficiency of activities have been considered, namely avoiding duplication of powers of the structural units of the NSDC Apparatus of Ukraine.

Materials and Methods

The author of this paper used a philosophical-legal and synergistic approach to investigate the subject under study, including the regulatory framework, scientific developments of modern Ukrainian administrative law researchers, the structure of the state body under study and the general state of its activity, problematic issues of its effectiveness in the conditions of foreign military, economic, and informational aggression, the field of its competence, etc. The synergistic approach allowed the author to comprehensively analyse the strategic aspect of the activities of the NSDC of Ukraine, which occupies a special place in the system of state bodies of Ukraine, which includes the heads of many state bodies, and is led by the head of state.

The axiomatic method of scientific cognition allowed the researcher to confirm the urgent role of the NSDC of Ukraine and its strengthening after the full-scale enemy invasion of Ukraine, this also applies to the accumulation of provisions on the competence of the NSDC of Ukraine and its Apparatus.

Along with the analytical method, the application of the hermeneutic method contributed to the identification of gaps in the legislation of Ukraine regarding the regulation of issues of ensuring the national security and defence of Ukraine. This helped interpret the powers of the President of Ukraine in the field of national security and defence, as well as the detailed legal regulation of the functioning of the NSDC of Ukraine in the system of state bodies of Ukraine. The author of this paper also used the same method to understand the key operational concepts of scientific research, which are indicated by the terms included in the title of the article and in the list of keywords, as well as the characteristics of the components of the competence of the NSDC of Ukraine.

The researcher resorted to the logical-semantic method when clarifying the content of the competence of the NSDC of Ukraine, and the structural-logical method helped determine the architecture of this study, the logic, and sequence of its individual parts.

Other methods of scientific research, which helped complete the study with orderly conclusions, included the comparative method, the modelling method, the historical method, the methods of deduction and induction, nomothetic, etc.

Results and Discussion

Administrative legal status of the NSDC of Ukraine. The administrative legal status of the state body under study is only one of the cross-sections of the legal status of the subject of law and is governed by the legal norms of the administrative legislation of Ukraine, and therefore is sectoral. The NSDC of Ukraine is a participant in

public relations in the sphere of the functioning of the executive power and at its interface with the presidential power , assuming that the "three branches of power" theory is outdated and the presidential power is not only in a presidential but also in a mixed republic, primarily during the period of the president's exercise of special powers in wartime, has the most superficial manifestation.

Considering the administrative legal status of the NSDC of Ukraine in the current situation, the author of this paper proceeds from the fact that the legal norms of administrative legislation (laws and sub-legislative acts) establish and consolidate administrative legal relations with the direct involvemnt of this subject of law. Thus, the researcher strives, within the limits of the possible and within the scope of this paper, to determine such points as the formation (reorganization, liquidation) of the NSDC of Ukraine; the list, scale, and scope of its powers; powers of its structural and auxiliary elements; the system of rights and responsibilities of the NSDC of Ukraine as a whole and its elements; issues of legal responsibility, etc.

The legal basis of the NSDC's activities. The legal status of the NSDC of Ukraine is prescribed in the provisions of the Constitution of Ukraine[1] and developed in legislation and, foremost, in the Law of Ukraine "On the National Security and Defence Council of Ukraine"[2], the latest amendments to which (regarding the alienation or seizure of movable property of defence enterprises in connection with the risk of military occupation) were made most recently – in September 2022. The activities of the NSDC (and its subdivisions) are regulated by several laws, including, in addition to the Constitution of Ukraine[3], the Code of Civil Protection of Ukraine[4], and the Law of Ukraine "On the National Security and Defence Council of Ukraine"[5], first of all, the Laws of Ukraine: "On the National Security of Ukraine"[6]; "On the Defence of Ukraine"[7]; "On the Legal Regime of Martial Law"[8]; "On the Fight Against Terrorism"[9]; "On the Central Bodies of Executive Power"[10]; "On the Cabinet of Ministers of Ukraine"[11]; "On Civil Service"[12], etc.

The functioning of the NSDC of Ukraine is also subject to many sub-legislative regulations (Decrees of the President of Ukraine; Resolutions of the Verkhovna Rada of Ukraine, Orders of the Cabinet of Ministers of Ukraine, etc.). The key regulations include Decrees of the President of Ukraine: "On the Introduction of Martial Law in Ukraine"[13] with the subsequent approval of the Law of Ukraine[14]; "On Information and Analytical Support of the President of Ukraine"[15]; "The Issue of Control over the Execution of Decrees, Orders, and Instructions of the President of Ukraine"[16], especially the National Security Strategy of Ukraine "Security of the human – security of the state"[17] and the Military Security Strategy of Ukraine "Military security – comprehensive defence"[18]. Moreover, the latter of these reflect the political and legal foresight and strategic prospects of national, as well as military security and defence of Ukraine.

The objects aimed at the activities of the NSDC of Ukraine are the national security and defence of Ukraine. Administrative legal relations concerning these objects are derived in nature, are part of general legal relations, and are structurally in the configuration of constitutional

[1]Law of Ukraine No. 254k/96-BP "Constitution of Ukraine". (1996, June). Retrieved from http://zakon5.rada.gov.ua/laws/show/254к/96-вр.
[2]Law of Ukraine No. 183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text.
[3]Law of Ukraine No. 254k/96-BP "Constitution of Ukraine". (1996, June). Retrieved from http://zakon5.rada.gov.ua/laws/show/254к/96-вр.
[4]Code of Civil Protection of Ukraine No. 5403-VI. (2012, October). Retrieved from https://zakon.rada.gov.ua/laws/show/5403-17#Text.
[5]Law of Ukraine No. 183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text.
[6]Law of Ukraine No. 2469-VIII "On the National Security of Ukraine". (2018, June). Retrieved from https://zakon.rada.gov.ua/laws/show/2469-19#Text.
[77]Law of Ukraine No. 1932-XII "On the Defense of Ukraine". (1991, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1932-12#Text.
[8]Law of Ukraine No. 389-VIII "On the Legal Regime of Martial Law". (2015, May). Retrieved from https://zakon.rada.gov.ua/laws/show/389-19#Text.
[9]Law of Ukraine No. 638-IV "On the Fight Against Terrorism". (2003, March). Retrieved from https://zakon.rada.gov.ua/laws/show/638-15#Text.
[10]Law of Ukraine No. 3166-VI "On Central Bodies of Executive Power". (2011, March). Retrieved from https://zakon.rada.gov.ua/laws/show/3166-17#Text.
[11]Law of Ukraine No. 794-VII "On the Cabinet of Ministers of Ukraine". (2014, February). Retrieved from https://zakon.rada.gov.ua/laws/show/794-18#Text.
[12]Law of Ukraine No. 889-VIII "On Civil Service". (2015, December). Retrieved from https://zakon.rada.gov.ua/laws/show/889-19#Text.
[13]Decree of the President of Ukraine No. 64/202 "On the Introduction of Martial Law in Ukraine". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/64/2022#Text.
[14]Ibidem, 2022.
[15]Decree of the President of Ukraine No. 709/94 "On the Information and Analytical Support of the President of Ukraine". (1994, November). Retrieved from https://zakon.rada.gov.ua/laws/show/709/94#Text.
[16]Decree of the President of Ukraine No. 1132/2005 "The Issue of Control over the Execution of Decrees, Orders, and Instructions of the President of Ukraine". (2005, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1132/2005#Text.
[17]Decree of the President of Ukraine No. 392/2020 "On the National Security Strategy of Ukraine". (2020, September). Retrieved from https://zakon.rada.gov.ua/laws/show/392/2020#Text.
[18]Decree of the President of Ukraine No. 121/2021 "On the Military Security Strategy of Ukraine". (2021, March). Retrieved from https://zakon.rada.gov.ua/laws/show/121/2021#Text.

legal jurisdiction. Therewith, the object of national security branches out into separate areas or vectors of national security, prescribed in the sectoral legislation of Ukraine.

The President of Ukraine is the first in the ranking of subjects ensuring the national security of Ukraine (Article 4)[1]. Likewise, among the list of his powers, the very first item in Article 106 of the Constitution of Ukraine[2] stipulates that the head of state ensures state independence and national security; while Item 17 of this Article assigns him the duties of the Supreme Commander-in-Chief of the Armed Forces of Ukraine; Item 18 establishes that he is the head of the National Security and Defence Council of Ukraine, and Item 19 prescribes the possibility of filing a submission to the Verkhovna Rada of Ukraine regarding the declaration of a state of war; this very Item 19 of the mentioned Article recognizes the right of the President of Ukraine to use the Armed Forces of Ukraine and other military formations (organizations) that may be created within the legislative field. Furthermore, Item 19 of Article 106 was amended in 2014, when the russian invasion of Ukraine factually began. And, finally, Item 20 of this Article gives the head of state the authority to declare mobilization (partial or general), introduce martial law in case of a threat of attack on the state, capture of territory, in case of danger to the independence of the state of Ukraine[3].

Structural and organizational order of the NSDC of Ukraine. According to the author of this study, structural and organizational order, in fact, the very architectonics of the NSDC of Ukraine looks, in passing, dualistic. The NSDC is subordinate to the President of Ukraine, who is its chairman; its decisions are put into effect by the head of state, who forms the composition of the latter, and its personal composition includes the Prime Minister of Ukraine, the heads of the "power" bloc of the state (the Minister of Defence of Ukraine, the Head of the Security Service of Ukraine, the Minister of Internal Affairs), the Minister of Foreign Affairs, as written out in legislative norms. Furthermore, membership in the NSDC of Ukraine can, pursuant to the regulatory framework, be obtained by the heads of other central executive authorities of Ukraine, as well as other individuals, if appropriate and at the discretion of the NSDC chairman. Presently, the NSDC includes the Prosecutor General of Ukraine, the Minister of Energy, the Head of the Office of the President of Ukraine, the President of the National Academy of Sciences of Ukraine, the Commander-in-Chief of the Armed Forces of Ukraine, the Minister of Veterans Affairs of Ukraine, the Head of the Foreign Intelligence Service of Ukraine, the Minister of Strategic Industries, the First Vice Prime Minister of Ukraine – Minister of Economy of Ukraine, Minister of Finance of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine, Deputy Prime Minister of Ukraine – Minister of Digital Transformation of Ukraine, Head of the State Financial Monitoring Service of Ukraine, Chairman of the National Bank of Ukraine. A special place in terms of functions and powers in the NSDC of Ukraine is occupied by its secretary. Currently, the NSDC consists of 22 people who represent the key levers of ensuring the functions of both this body and the President of Ukraine, as well as the entire state in terms of ensuring the national security and defence of Ukraine, i.e., they are the direct organizers of the implementation of a strategic, socially determined, and therefore useful purpose, which is at the same time the greatest social need.

The secretary of the NSDC of Ukraine ensures the organization of work and implementation of decisions of this body and has deputies. Currently, the head of state has appointed the first deputy and two deputy secretaries of the NSDC, who form the NSDCs staff and are subject to the Law of Ukraine "On Public Service" as managers, as well as one more official – the head of the NSDC's apparatus[4]. And if until now, as noted, there has been no such regulatory act as the Regulation of the NSDC of Ukraine, then the Regulation on the NSDC Apparatus was approved by a decree of the President of Ukraine back in 2005[5]. This body provides current organizational, informational, and analytical support for the functioning of the NSDC of Ukraine – a total of 17 powers – and in this regard, its tasks are formed within the legislative field. The updated Structure of the NSDC Apparatus of Ukraine was approved by the Decree of the President of Ukraine in February 2021[6]. Apart from the management apparatus and the chief state auditor, it includes 23 services that together comprise the organizational-administrative and executive system of this body. After the start of full-scale russian aggression in Ukraine, among all the services, the largest load falls on the services: on matters of external security; information security and cybersecurity; on matters of national and public security; on matters of military security; on issues of mobilization and territorial defence. And the beginning of the enemy's massive missile attacks on these

[1]Law of Ukraine No. 183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text.
[2]Law of Ukraine No. 254k/96-BP "Constitution of Ukraine". (1996, June). Retrieved from http://zakon5.rada.gov.ua/laws/show/254к/96-вр.
[3]Ibidem, 1996.
[4]Law of Ukraine No. 183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text.
[5]Decree of the President of Ukraine No. 1446/2005 "Regulations on the Apparatus of the National Security and Defense Council of Ukraine". (2005, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1446/2005#n29.
[6]Decree of the President of Ukraine No. 76/2021 "Structure of the Apparatus of the National Security and Defence Council of Ukraine". (2021, February). Retrieved from https://zakon.rada.gov.ua/laws/show/76/2021#n15.

objects amplified the demands for the return of such services as critical infrastructure security; on issues of economic security, on issues of social and humanitarian security. It can be argued that even the model of the administrative structure of this body reveals the planned preparation of the authorities for a possible full-scale invasion of Ukraine's north-eastern neighbour and response to it.

Thus, the competence of the NSDC (and its Apparatus) in the structure of the content of the administrative legal status of the NSDC of Ukraine constitutes a set of its powers arising from the goals of ensuring national security and defence of the state by performing tasks and functions prescribed by law. This is possible in forms and methods that do not contradict the norms of law, in legal realization, including their application. It is fair to add that, in addition to its Apparatus, the activities of the NSDC of Ukraine are ensured by other divisions created in different years, endowed with narrow competences. Among them, e.g., the Centre for countering disinformation under the NSDC as its working body, which carries out such countermeasures not only in relation to current, but also in relation to potential threats[1]; the interdepartmental scientific research centre on the problems of combating organized crime[2], etc., the study of the administrative legal status and activities of which is not the subject of the present study.

And separately, it is necessary to emphasize the importance of information resistance to the enemy of the Information Security and Cybersecurity Service in the structure of the NSDC and the aforementioned Centre for countering disinformation under the NSDC of Ukraine, which is the body of the latter[3]. The Centre and the Service carry out measures to counter and prevent threats to national security in the information sphere, perform tasks to ensure information security. However, they do not duplicate each other, but complement each other. If the said Service is mainly concerned with strategic issues of information security, then the Centre is concerned with the analysis and discourse of the content of real and potential information threats, concrete practical activities to counter and prevent them. Presently, the Centre is actively involved in countering russian military aggression. And, touching on the means of such information-preventive and anti-disinformation activities, one should not overlook the role of the Information and Analytical System (IAS) "SOTA" – the Main Situational Centre of the state. IAS "SOTA" was created and put into operation by the Apparatus of the NSDC of Ukraine. It is used to coordinate the work of all bodies of Ukraine. The system provides 20 areas of information security and national security in particular. It is a tool for managing risks in the field of national security and defence of Ukraine (Information and Analytical System..., 2022).

One cannot overlook another important body for ensuring strategic leadership of all paramilitary formations and law enforcement agencies of the state – the Staff of the Supreme Commander-in-Chief of the Armed Forces of Ukraine, created by Decree of the President of Ukraine on the day of the start of full-scale armed russian aggression in Ukraine – instead of the Military Cabinet of the NSDC of Ukraine, which terminated its activity in connection with the full-scale aggression of the enemy[4]. This body, as the fierce struggle of the Ukrainian people and the Ukrainian state with the invaders demonstrates, ensuring survival as such, only strengthens the levers of the administrative legal status of the NSDC of Ukraine as a subject of national security and defence.

The author of the study emphasizes an important aspect, namely addresses the fact that until now, the Regulation of the NSDC of Ukraine, which should govern the organization of its activities pursuant to Part 3 of Article 2 of the Law of Ukraine "On the National Security and Defence Council of Ukraine"[5] was not developed and approved by the decree of the Head of State.

The NSDC of Ukraine is an essential element of the state mechanism, and the type of its activity is determined by its tasks and its subordination in the relevant sector directly to the President of Ukraine. Not being a completely independent organizational unit, the NSDC of Ukraine reports exclusively and directly to the Head of state. Thus, the NSDC of Ukraine, considering its membership and powers, is included in the complex organizational structure of the presidential and executive power. It is common knowledge that the bodies of the executive power of the state are subjects of administrative law and are subject to the force of administrative legislation.

The legal status of the NSDC of Ukraine is characterized by the corresponding vector and scope of the President of Ukraine's activities in relation to national security and defence. Due to the full-scale russian military aggression in Ukraine, the NSDC of Ukraine not only intensified its activity, but also shifted the focus of its activities under the President of Ukraine as the Supreme Commander-in-Chief of the Armed Forces of Ukraine to repel the enemy's attack, to liberate all

[1]Decision of the National Security and Defence Council of Ukraine No. 106/2021 "On the Creation of the Centre for Countering Disinformation". (2021, March). Retrieved from https://zakon.rada.gov.ua/laws/show/106/2021#Text.
[2]Decree of the President of Ukraine No. 144/2007 "On Regulations on the Interdepartmental Scientific Research Center on the Problems of Combating Organized Crime". (2007, February). Retrieved from https://zakon.rada.gov.ua/laws/show/144/2007#Text.
[3]Decision of the National Security and Defence Council of Ukraine No. 106/2021 "On the Creation of the Centre for Countering Disinformation". (2021, March). Retrieved from https://zakon.rada.gov.ua/laws/show/106/2021#Text.
[4]Decree of the President of Ukraine No. 72/2022 "On the Formation of the Headquarters of the Supreme Commander". (2022, February). Retrieved from https://zakon.rada.gov.ua/laws/show/72/2022#Text.
[5]Law of Ukraine No. 183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text.

occupied territories and citizens. It would be appropriate to standardize these points in the law of Ukraine on the President of Ukraine, which is currently not adopted.

The Concept of countering russian aggression and expansion (military and other) can become a key strategic document, since the war, essentially with the enemy of humanity, is concentrated only on the territory of Ukraine, the Ukrainian people, economy, ecology, etc. suffer irreparably. It is the NSDC of Ukraine that could become the initiator of the strategy to protect the security of the countries of the world, through Ukraine's example and understanding of these threats. After all, it is difficult for Ukraine to stand alone against the enemy that poses a threat to the stability of the current world order. Since the russian invasion is large-scale, and the invader, even in this century, has already encroached (and continues to do so) on sovereignty and territorial integrity, on peace not only in different countries (Georgia, Ukraine, intervention in Syria, etc.), but also in entire regions, conducts bloody wars against its own peoples, threatens the world with the use of nuclear weapons, it would be expedient to spread such a Concept in the UN and, especially, among the EU countries, the USA, the countries that are neighbours of the aggressor and countries that have suffered from russian wars and russian expansion in last century.

The NSDC of Ukraine deals with key issues of national security and defence of the state. These concepts are not only consolidated in the current legislation, but are interpreted by legal scientists and practitioners, namely V.A. Lipkan (2009), A. Amro (2019), E.V. Kobko (2022) clarified the concept of "national security" in their studies. The author of the present study, without using other scientific interpretations, for the purposes of this paper interprets the national security exactly as its concept is prescribed in the corresponding law of Ukraine, namely: "national security of Ukraine – protection of state sovereignty, territorial integrity, democratic constitutional order and other national interests of Ukraine from real and potential threats" (Article 1)[1]. Thus, *national security* is the state and the highest degree of security of the listed objects of such security. The same guidelines were followed when interpreting the term "defence": "the defence of Ukraine is a system of political, economic, social, military, scientific, technological, informational, legal, organizational, and other measures of the state regarding preparation for armed defence and its protection in case of armed aggression or armed conflict" (Article 1)[2]. Therefore, *defence* is an activity complex of the broadest, most accessible and diverse measures of such a legal subject as the state, also factoring in the elements of the subjective side of this concept.

All this leads to an understanding of the vector and plane of competence of the NSDC of Ukraine in the legislative field. It should be recalled that the competence of any state body includes its duties and rights related to the manifestation of state power; legislative consolidation of its subject of competence, as well as objects covered by its authority, and, admittedly, its subordination in the hierarchy of power. In the same way, the competence of the NSDC of Ukraine is determined, keeping in mind that its indicator will be the subject of competence, and not forgetting about the base – the current legislation in a broad sense.

Presently, it is necessary to resort to a brief analysis of the components of the competence of the NSDC of Ukraine, which will help identify this body in the system of subjects of state power.

Since the NSDC of Ukraine is a coordinating body under the President of Ukraine, as stated in Article 1 of the Law "On the National Security and Defence Council of Ukraine"[3], and, given the content of its name, is an advisory body, and its decisions are put into effect by regulations of the Head of State, the said law contains legal norms regarding the powers of the chairperson, secretary, and members of the NSDC of Ukraine, as well as defines its functions and competence in general. And here the structural, organizational, and target cross-section of the activities of this body, its vertical and horizontal connections in legal relations, as well as interdependence intersect. Article 4 of the Law divides the competence of the NSDC of Ukraine into ten components, which the author proposes combining into several blocks.

The first block is the development of strategic decisions on national security and defence of Ukraine (Item 1). It includes issues of national interests; conceptual approaches to law-making, organization of power, national security and defence, material, financial, and personnel support, attracting the potential of all bodies of the executive power system, information security, scientific, economic, technical support, ecology, crises.

The second block – emergency – is associated with the declaration of mobilization, martial law or a state of emergency, or war.

The third block concerns the coordination and control of activities (including the implementation of decisions of the NSDC of Ukraine) by executive authorities and local self-government bodies within legally defined limits, the state economy in conditions of emergency and martial law.

Finally, the fourth block covers issues related to the oligarchy (recognition of certain individuals as oligarchs, maintaining a register of oligarchs).

[1]Law of Ukraine No. 2469-VIII "On the National Security of Ukraine". (2018, June). Retrieved from https://zakon.rada.gov.ua/laws/show/2469-19#Text.
[2]Law of Ukraine No. 1932-XII "On the Defense of Ukraine". (1991, December). Retrieved from https://zakon.rada.gov.ua/laws/show/1932-12#Text.
[3]Law of Ukraine No. 183/98-BP "On the National Security and Defence Council of Ukraine". (1998, March). Retrieved from https://zakon.rada.gov.ua/laws/show/183/98-%D0%B2%D1%80#Text.

Thus, even a cursory analysis of competence, certainly factoring in the expanded composition (especially in the current conditions of martial law), allows preliminarily concluding that the NSDC of Ukraine performs an important role and is a necessary body, but cannot go beyond its competence, stipulated by legislation.

The above is also confirmed by the functions of the NSDC of Ukraine, namely principal proposals to the head of state regarding the foreign and internal policy of Ukraine in the field of national security and defence; coordination and control in the mentioned spheres and – in a separate line – the same under conditions of war, state of emergency or crises when they threaten the national security of Ukraine.

According to the author of this paper, some scientists, including O.A. Panchenko (2020), propose to regulate the duplication of powers of subjects of ensuring national security and information security legislatively, thereby improving their interaction. Worthy of discussion is the statement of V.A. Lipkan (2009) regarding the clarification of the name of the subject of national security – "National Security and Defence Council", which justifies the need to use the term "National Security Council of Ukraine" at the legislative level, without the words "and defence" because, in his opinion, defence is one of the components of national security. E.V. Kobka (2022) fairly proposes the legal consolidation of national security subjects in Ukraine by approving the regulation on interaction and coordination of national security subjects, which defines the subjects, forms, and methods of their interaction and the coordinating body among them.

Conclusions

Having investigated the activities of the NSDC of Ukraine under the President of Ukraine and the composition of the administrative legal status of the NSDC from the standpoint of administrative law, specifically in the conditions of martial law, the author of this paper fulfilled the purpose of this study and concluded as follows:

The administrative legal status of the NSDC of Ukraine as a component of the legal status is embodied in its competence (ranked and allocated four essential blocks), the entire set of its powers aimed at the performance of its goals and tasks, including the order of formation, the degree of its independence (subordination), the sector of knowledge, functions, architecture (structure, auxiliary bodies, means) and is based on the Constitution of Ukraine, laws of Ukraine, sub-legislative acts, among which decrees of the President of Ukraine occupy a prominent place.

A prerequisite for the administrative legal status of the NSDC of Ukraine is its consolidation in the administrative legislation of Ukraine, which is currently well-developed, but still lacks the Regulations for the work of this body, which is extensive, but justifies its structure in war conditions.

In the context of the full-scale russian military aggression in Ukraine, the NSDC of Ukraine not only intensified its activity, but also shifted the focus of its activities under the President of Ukraine specifically as the Supreme Commander-in-Chief of the Armed Forces of Ukraine to repel the enemy's attack, to liberate all occupied territories and citizens. It would be appropriate to standardize these points in the law of Ukraine on the President of Ukraine, which has not yet been adopted, and to develop the details in the Law of Ukraine "On the National Security and Defence Council of Ukraine".

The principles of activity of the NSDC of Ukraine and its subdivisions were defined, it is stated that the principle of Ukrainocentrism in this wartime becomes the main one and that it would be correct to consolidate the principles of the NSDC's activity in legislation.

Since the russian invasion is large-scale, and the invader, even in this century, has already encroached (and continues to do so) on sovereignty and territorial integrity, on peace not only in different countries, but also in entire regions, the NSDC of Ukraine to overcome real threats to the states of the world and world order, it is proposed to develop the relevant Concept and spread its strategic approaches at the international level, especially among the EU countries, the USA, and the countries that are neighbours of the aggressor.

Conflict of Interest

None.

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Рада національної безпеки і оборони України: адміністративно-правовий статус

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Анотація
Актуальність дослідження зумовлена протистоянням збройній агресії РФ, зокрема безпековим державним органом – Радою національної безпеки і оборони України, який для відсічі ворога та звільнення окупованих територій активував свою діяльність при Президентові України як головнокомандувачу Збройних сил України. Метою статті є вивчення характеристик адміністративно-правового статусу Ради національної безпеки і оборони України та надання пропозицій щодо вдосконалення статусу з огляду на дію воєнного стану в Україні. Використано різнорівневі методи наукового пошуку, найбільш результативними й активними серед яких стали порівняльний метод і методи аналізу. Автор статті узагальнив і підтвердив наукову новизну досліджуваної теми, а також окреслив низку прогалин щодо правового забезпечення адміністративно-правового статусу Ради національної безпеки і оборони України. Зокрема, для встановлення порядку роботи цього органу запропоновано затвердити Регламент, який наразі залишається актуальним. Доведено доцільність розроблення та затвердження стратегічно важливого документа в умовах сьогодення – Концепції протидії російській агресії та експансії (воєнній та іншій). Автор статті вважає, що безпековий державний орган країни може виступити ініціатором стратегії захисту безпеки держав світу, оскільки Україна є однією з країн світу, яка наразі потерпає від збройної агресії ворога-сусіда. Практична цінність цієї статті та висновків, зроблених автором, полягають у конкретних положеннях, що можуть бути використані для підвищення ефективності діяльності розглядуваного державного органу, особливо в умовах воєнного стану, а саме зміцненні обороноздатності держави, відсічі віроломного нападу ворога, удосконаленні функціонування президентської влади, а також виконавчої влади загалом і її розгалужень, особливо щодо забезпечення національної безпеки держави

Ключові слова:
Верховний Головнокомандувач; Збройні Сили України; безпековий державний орган; обороноздатність; воєнний стан; влада; президент; національна безпека

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Historical origin and current state of research gender equality in law enforcement bodies of Ukraine

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Abstract
Reforming the security sector is aimed at its transformation with the aim of increasing accountability, efficiency, humanism, the rule of law, and establishing gender equality in the structural divisions of the Ministry of Internal Affairs of Ukraine. One of the structural units of the Ministry of Internal Affairs of Ukraine is the National Police. Gender parity in the National Police is a guarantee of ensuring the implementation of the reform and compliance with global trends in the state's development. The purpose of the article is to conduct a theoretical analysis of scientific research on the issue of gender equality in law enforcement agencies of independent Ukraine from 1991 to the present. The methodological basis of the research was the fundamental principles of equal rights and opportunities for men and women in society. The research used methods of scientific research (cognition): theoretical research methods (descent from abstract to concrete, transition from concrete to abstract), empirical research methods (comparison), complex research methods (abstraction, analysis and synthesis, induction and deduction), which contributed to the achievement of the research goal. The stages of scientific research on gender equality in law enforcement agencies of Ukraine are identified and substantiated: the first stage (1991 – October 2004); the second stage (October 2004 – November 2015); the third stage (November 2015 to the present).It was determined that scientific research on the issue of gender equality in the law enforcement agencies of independent Ukraine concerned the legal regulation of the work of female law enforcement officers and their social and legal protection, gender-colored styles of behavior of employees of law enforcement agencies, their psychophysiological differences and gender equality, psychological conditions for ensuring gender equality equality in the activities of law enforcement agencies, features of the development of gender relations in the interpersonal communication of law enforcement officers. Three groups of problematic issues arising in the work of a female law enforcement officer serving in the National Police of Ukraine are singled out and described in detail. The practical value of the conducted research lies in the conducted thorough analysis of the conducted scientific studies regarding the issue of gender equality in the law enforcement agencies of independent Ukraine and the identification of unresolved issues

Keywords:
gender equality; law enforcement agencies; National Police of Ukraine; male police officers; female police officers

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Introduction

At the present stage of society's development, transformational changes and the course towards European integration are accompanied by a change in the role of women in all spheres of life, including professional ones. The law enforcement sphere is no exception: the police service, which until recently was considered a purely male matter, has begun to change its gender composition.

If as of 2007, the number of women in law enforcement agencies was only 14.8% of the total number of personnel (among certified personnel – 10.6%), then a decade later the share of women increased to 23.5%, of which in the National Police – 21.8% (Levchenko & Martynenko, 2008; Women. Peace. Security..., 2017).

Gender analysis of the specific features of personnel policy in the system of the Ministry of Internal Affairs of Ukraine (the MIAU) for 2016-2017 regarding the personnel of bodies belonging to the MIAU, central executive authorities, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the MIAU, revealed uneven representation of men and women in positions: three times less total number of women (managers and performers) than men; compared to men, three times less total number of women in certified positions; almost four times less number of women in senior certified positions than men (Burbii & Bochek, 2018).

A major step in the development of gender activities of the MIAU and the protection of the rights of women working in law enforcement agencies was the creation and launch of the public organization "Ukrainian Association of law enforcement representatives" in March 2018. This organization brought together women and men who are representatives of law enforcement agencies and higher education institutions of the MIAU, to ensure equal rights and opportunities for women and men in law enforcement agencies of Ukraine, the introduction of gender equality and gender balance in the workplace.

As of August 2022, over 66 thousand women (employees of the Armed Forces of Ukraine, policewomen, female national guards, rescuers, border guards) work and serve in the system of the MIAU (Over 66 thousand..., 2022). Currently, policewomen are members of specialized mobile police groups for detecting sexual crimes committed by the russian occupiers on the territory of Ukraine.

Gender issues have long been the subject of scientific study by foreign scientists.

Researchers (Brown & Silvestri, 2020), who investigated the issue of women's employment in the police, due to the reform and change in the gender ratio of employees, recognized the increase in manifestations of police care in police activities, but it is an exaggeration to explain this only by the influence of feminization. However, policewomen, regardless of race, are less likely to use force than policemen (Bocar *et al*., 2021).

In many countries in Asia and Latin America, women's police stations have been established and operate, including social workers, lawyers, psychologists, and policewomen. The advantages of this innovation are women's access to justice, prevention of gender-based violence, reduction of the duties of policewomen and the possibility of their career growth, as well as a reduction of the burden on standard police stations (Carrington *et al*., 2020). Limitations of this model compared to conventional models of policing are that female police stations may not be associated with positive perceptions of policewomen, and their segregation may lead to unintended consequences (Nirvikar, 2020).

And even though there are still gender stereotypes both among candidates for police service and among active police officers, only a small proportion of them support the gender-stereotypical view of men and women in the police service, the majority favour gender equality of police officers of different sexes in the performance of police tasks (Bloksgaard *et al*., 2020). According to the results of Brown Katharine and Reisig Michael (2020), the influence of the procedural attitude of legal authorities on the legitimacy of police activity does not differ and is the same, regardless of the gender of the police officer.

The purpose of this study was to conduct a theoretical analysis of the state of research on gender equality in law enforcement agencies of Ukraine in the period from 1991 to the present. The task of this study was to determine the specific features of the development of gender issues in law enforcement agencies of Ukraine, specifically, in the National Police of Ukraine, to identify unresolved problems that require further scientific research with the purpose of integrating them into the practical activities of police officers (Kushnir, 2020).

The material for this paper was the published scientific research related to the study of gender equality in law enforcement agencies of independent Ukraine in the period from 1991 to the present.

The historical prerequisites for the legal regulation of women's labour in Ukraine were their separation as a category of workers to whom restrictive and prohibitive norms in labour relations are applied (Shulzhenko, 2018).

First stage of research on gender equality in law enforcement agencies of Ukraine (1991 – October 2004)

This stage began with the declaration of independence of Ukraine and the creation of the Ukrainian police. The main regulations governing women's service in the police were the Law of Ukraine "On Police"[1] and regulations on the service of ordinary and commanding personnel of internal affairs bodies[2].

[1]Law of Ukraine No. 565-XII "On Police". (1990, December). Retrieved from https://zakononline.com.ua/documents/show/156094__600774.
[2]Resolution of the Cabinet of Ministers of the Ukrainian SSR No. 114 "On the Approval of the Regulation on the Completion of Service by the Rank and File of Internal Affairs Bodies". (1991, July). Retrieved from https://zakon.rada.gov.ua/laws/show/114-91-%D0%BF#Text.

The main tasks and principles of the militia, the legal basis, the organization, and subordination of the militia, the rights and responsibilities of the militia, admission to the service in the militia, completion of service, legal, and social protection of police officers, and their responsibilities were enshrined in the Law of Ukraine "On Police".

The regulation on the completion of service by ordinary and senior members of the internal affairs bodies determined the rights, duties and responsibilities, issues regarding the assignment, demotion, and deprivation of special ranks, appointment to positions, transfer and promotion, dismissal from service, certification, vacations, special features of the course services by separate categories of persons of the senior staff.

At that time, scientists of various fields of knowledge showed a permanent scientific interest in gender issues in the law enforcement agencies of Ukraine.

The second stage of research on gender equality in law enforcement agencies of Ukraine (October 2004 – November 2015)

In October 2004, the position of adviser to the Minister of Internal Affairs of Ukraine on human rights and gender issues was introduced (Levchenko & Martynenko, 2008).

Conducting scientific research on gender equality in the activities of law enforcement agencies of Ukraine began in 2008 with the adoption of the "Program for Ensuring Gender Equality in the Security Service of Ukraine until 2011" (Maksymenko, 2010). Actually, until 2016, the MIAU belonged to the small number of executive authorities that developed branch and departmental regulations on gender issues (Zhukovska, 2020).

The first gender studies under the partnership of the MIAU were carried out within the framework of the project "Program of Equal Opportunities and Rights of Women in Ukraine", which was implemented by the United Nations Development Program (UNDP) in Ukraine under the aegis of the European Union and the Swedish International Development Cooperation Agency (SIDA) in 2008 (Levchenko & Martynenko, 2008) and 2009 (Blaha, 2009).

Issues of gender development of police activity in Ukraine, specifically the service of women in the Ukrainian police, as well as in peacekeeping missions, regulatory protection of rights in the field of observing women's rights and promoting gender equality, the formation of gender policy in law enforcement agencies of Ukraine were reflected in the work prepared with the involvement of the adviser to the Minister of Internal Affairs of Ukraine on human rights and gender issues (Levchenko & Martynenko, 2008; Plugatar, 2018).

In 2009, a study was conducted on the opinions and experience of law enforcement officers regarding gender equality and gender discrimination of female employees in their operational and official activities. This study recorded the existence of a pronounced situation of gender asymmetry of personnel in law enforcement agencies (the presence of the so-called "pyramid": as the level of positions increases, the number of women working for them decreases) (Blaha, 2009). The assessment of the prevalence of discriminatory manifestations in law enforcement agencies allowed developing potential mechanisms for their deterrence and prevention.

Since 2008, scientific research has been conducted on the legal regulation of the labour of women working in law enforcement agencies.

In her thesis paper, N.A. Cherednichenko (2008) considered the features of social and legal protection of female law enforcement officers. The scientist concluded that the implementation of measures to implement gender policies solely to improve the status of women does not factor in the situation in which men find themselves, as a result of which there will be no changes in overcoming gender imbalance.

Scientist Yu.V Ivchenko (2009) was the first to comprehensively investigate the philosophical and legal foundations of gender policy in Ukraine in the context of the activities of law enforcement agencies. She considered the term "gender" as a philosophical and legal category that allows considering a person not as an extra-sexual being but allows forming a tolerant attitude towards men and women. Theoretically understanding the problem of equality between women and men, the scientist concluded on the importance of using the advantages of gender-based styles of behaviour of law enforcement officers.

N.V. Maksimenko (2010) conducted one of the first comprehensive studies in Ukraine concerning the issues of women's service activities in law enforcement agencies and their administrative legal support. The scientist considered gender equality as "a universal principle in the field of human rights, which gives persons of the two sexes equal rights and opportunities for their involvement in all spheres of public, state, and private life".

V.V. Kirichenko (2011) investigated the specifics of the administrative legal regulation of gender equality in the activity of the internal affairs bodies (IAB) of Ukraine, considering the psychophysiological and other characteristics of men and women. In her opinion, "gender equality in the IAB" is "a mode of activity in which persons of different sexes are given equal rights and opportunities to enter and complete service in the IAB, considering the physiological characteristics of the person". In her opinion, the establishment of differentiated standards for physical training for men and women; shift schedule for a woman during breastfeeding is not a violation of gender equality.

Specific features of gender relations in the system of professional interaction of law enforcement officers became the object of scientific interest of V.V. Kudria (2011). The scientist substantiated gender equality as "the equal legal status of women and men and equal opportunities for its enjoyment, which allow individuals to freely use their abilities to take part in the political,

economic, social, public, and cultural spheres of life regardless of gender" (Kudria, 2011).

Scientist I.V Shulzhenko (2012) comprehensively researched and scientifically analysed the specific feature of the legal regulation of female labour in law enforcement agencies according to gender profile, considering the sex and the specifics of professional activity (Shulzhenko, 2012). The scientist supported the idea of gender equality when serving in law enforcement agencies and proposed adding a corresponding article to the Law of Ukraine "On the Police"[1].

A.V. Moroz (2012) considered gender relations in the IBA of Ukraine as "a new social reality formed at the intersection of the social institution of law enforcement agencies and gender institutions of Ukrainian society, and which incorporates the signs of a predominantly patriarchal ideology of both the former and the latter". The sociodiagnostics of the reform of gender relations in the law enforcement agencies of Ukraine, conducted by Moroz, proved the ineffectiveness of gender transformations: the existence of gender inequality, which is manifested in gender asymmetry, gender imbalance and discrimination at the level of interpersonal relations (Moroz, 2012). Social technology for improving gender relations in law enforcement agencies of Ukraine should include systematic actions at the levels of legal, scientific and methodological, personnel, information and organizational, and socio-psychological support. The researcher substantiated, adapted, and applied theoretical models to understand gender relations in law enforcement agencies: the model of the development of "recognized" and "outsider" relations (to explain the internal mechanisms of gender inequality in the relationship between men and women, the causes of gender conflicts); the model of schismogenesis (to understand the specifics of the development of the conflict, the split in gender relations in law enforcement agencies) includes three types of interaction that lead to gender inequality: symmetrical schismogenesis (reacting to any manifestation of the enemy's power in the same way); complementary schismogenesis (the determination and manifestations of the growing strength of one side are strengthened due to the weakening of the opposition of the other side, which accepts the norms, rules of behaviour, and the image of the dominant side); exchange (women are given work that men do not want to perform, e.g., keeping records); marginality/centrality model (to understand the position of law enforcement officers and its consequences within gender relations).

Scientist O.M. Smirnova (2015) emphasized the importance of factoring in the psychological conditions of ensuring gender equality in the activities of law enforcement agencies of Ukraine, namely: awareness by employees of the importance of gender equality, adequate attitude towards female law enforcement officers.

Thus, in Smirnova's thesis paper, gender-based styles of behaviour of male and female employees were analysed, attention was paid to their psychophysiological differences, and psychological conditions for ensuring gender equality were considered.

The third stage of research on gender equality in law enforcement agencies of Ukraine (November 2015 – present)

Since November 2015, scientific research on gender issues in the structure of the newly created National Police of Ukraine begins.

The study of the theoretical and legal aspect of the specific features of gender relations, conducted by O.S. Golub (2018), allowed determining that according to the direction and totality of its legal means, the legal regulation of gender relations forms the following types: discriminatory type (restriction of the rights and opportunities of one gender compared to the other). This type contributes to the gender gap in society and perpetuates the stereotype of the preference for a particular article; paternalistic type (aimed at protecting women's rights and freedoms). This type of legal relationship is aimed at supporting only women; egalitarian type (creates equal opportunities for men and women in all spheres). This type makes provision for a system of legal norms and real mechanisms for their implementation to ensure equality of representatives of different sexes.

Researcher A.I. Tabanova (2018) advocates a gender-differentiated approach to the work efficiency of men and women (achieving the maximum economic effect through the rational use of labour potential from the standpoint of gender specifics). In her opinion, gender balance is "a fairer distribution of resources and income, rights and responsibilities, workload and rest between the sexes" (Tverdokhliebova, 2017). Therewith, the researcher addresses the compliance of the Constitution of Ukraine with European standards and the proclamation of gender equality, but also points out the declarative nature of these provisions due to the lack of consolidation of the relevant procedures and mechanisms.

Problematic issues in the field of ensuring gender equality in the activities of the National Police of Ukraine, according to T.A. Pluhatar (2018), are the observance of gender equality in the recruitment of men and women to the police; equal rights and opportunities for male and female police officers; sexual harassment at the workplace; the existence of certain aspects of discrimination against both men and women.

O.O. Uvarova (2019) noted that the principle of true equality lies in treating women differently in the following cases:

– related to biological and socially determined differences between women and men (the period of pregnancy of a woman, the time after childbirth and during lactation);

[1]Law of Ukraine No. 565-XII "On Police". (1990, December). Retrieved from https://zakononline.com.ua/documents/show/156094__600774.

– to address the consequences of discrimination against women in the past and/or now (ensuring a more balanced representation of women in leadership);

– to reallocate power and resources between women and men to ensure balance (e.g., introducing quotas for women's representation).

According to the conclusions of the study conducted by I.P. Andrusiak (2017), she distinguishes between the terms "gender equality" and "women's rights" in terms of content and relationship. In her opinion, gender equality is the equality of persons regardless of their gender in all spheres of social life, whereas women's rights are "the specific rights of women, determined by their reproductive function, their desire, ability, and possibility of motherhood, which is a condition for the continued existence of human society".

N.Ye. Tverdokhliebova (2017) believes that when integrating gender into the reform of police forces, gender expertise, gender analysis, gender management, gender statistics, and gender training of personnel should be carried out.

Scientists note that the causes of gender inequality in society are religion, gender stereotypes, and gender attitudes (Kaminska, 2018). These are gender stereotypes of masculinity-femininity, gender stereotypes regarding ideas about the division of family and professional roles between men and women, and gender stereotypes determined by the specifics of labour, as well as gender attitudes of patriarchal and feminist types.

O.V. Gorbachova (2016) spoke about the need for new qualities from law enforcement officers, considering the gender aspect, based on an egalitarian system of ideas. Researchers Ye.A. Savela, A.S. Yaroshenko (2019) and N.E. Tverdokhlebova (2017) challenge claims about gender equality as equality in the duties of national police officers, which are explained by different biological indicators, physiological differences between women and men. D.H. Tinin and V.P. Timofeiev (2022) understand gender equality as a fair and equal distribution of power, influence, and resources between men and women.

A. Blaga *et al*., (2009) and A.H. Harkusha's research (2019) concerned the problem of gender stratification in the National Police of Ukraine. On the way towards gender parity, it is necessary to remember the established traditions regarding gender-role stereotypes and the physical and psychological characteristics of women. The police service makes demands on women that are contrary to the conventional understanding of the position of women as such, and therefore it is necessary to supplement the Labour Code of Ukraine with a provision on the mandatory creation of special supervisory associations that monitor the observance of equal rights and opportunities for women and men in organizations, enterprises, institutions, specifically, and the National Police of Ukraine; to introduce disciplinary responsibility (with further consequences for service) of managers who limit the rights of pregnant women; women's rights related to their reproductive function; the rights of women who are on leave to take care of a child until it reaches the age of three.

N.V. Halitsyna (2020) thoroughly investigated the mechanism of ensuring gender equality in the bodies of the National Police of Ukraine (characteristics, components, levels). She determined that gender equality in the bodies of the National Police of Ukraine is ensured at the national and departmental levels, and also described the components of the mechanism for ensuring gender equality in the bodies of the National Police of Ukraine and the tools for ensuring it at the level of departmental regulation. Halitsyna advocates the introduction of gender quotas in the bodies of the National Police of Ukraine, which will allow the principle of gender equality to be observed when: recruiting women to serve in the National Police; appointment of female police officers to managerial positions; inclusion of female police officers in the competitive and attestation commissions.

Therewith, the introduction of a quota for the selection of women in law enforcement agencies should be balanced and substantiated (over-engagement with gender issues can lead to a decrease in the quality of the professional composition of the police).

L.H. Kovalchuk *et al*., (2017), V.S. Medvedev, D.A. Horbenko (2020) are convinced that the active reform of the security sector of Ukraine contributed to the implementation of the principle of gender equality in the force structures. However, it is still important to optimize service activities by solving existing issues of equality between men and women to eliminate gender imbalances in the service, further ensuring gender equality in the security sector based on an egalitarian system of ideas, competence, and professionalism of police officers regardless of their gender.

N.V. Kushnyr (2020) notes that the proper implementation of the principle of gender equality in labour relations is the establishment of equal rights of men and women when bringing to legal responsibility.

Based on the analysis of the state of ensuring gender equality in the system of the MIAU, scientist O.Yu. Drozd (2020) identified the following solutions:

– to develop mechanisms to ensure equal access for women and men to take part in peacekeeping and special operations, in the work of advisory bodies, civil-military cooperation and measures to combat gender-based offences in the service;

– to develop a separate mechanism for handling complaints in case of gender-based offences committed by colleagues in the service;

– to unify the requirements for physical fitness for candidates for service, considering the international practices on this issue and their statutory regulation.

N.V. Lyakh (2021) understands gender equality as "fair treatment of women and men, a sign of the rule

of law, an indicator of the level of development of society, a condition for the development of democracy". The researcher defines the gender policy in the system of the National Police as "a set of actions to ensure the appropriate social status of police officers pursuant to education, professional, and personal qualities, level of cultural development and potential based on guaranteeing equal opportunities for women and men".

The author of this paper agrees with the scientific opinions of M. Lisa *et al*., (2019) L.V. Martseniuk, and O.V. Hruzdiev (2021) regarding the implementation of gender equality in the security sector of Ukraine: to achieve a balanced professional and personal life, it is necessary to factor in such important aspects of life as health, relationships, career, self-improvement, rest. The advantages of gender equality include ensuring a representative composition; minimizing gender discrimination and preventing sexual harassment in the workplace; creating a non-discriminatory culture; and respecting international and national obligations.

N.A. Orlovska, and Yu.P. Stepanova (2021) note the outstanding role of Resolution No. 1325 (Women. Peace. Security…, 2017) in ensuring gender equality and expanding women's rights in the security and defence sector (Orlovska, 2021). M.I. Sayenko *et al*. (2021) emphasize the problems of women in appointing police officers and implementing a gender-balanced approach in the ranks of the National Police of Ukraine (Saienko, 2021).

The author of this study agrees with the opinion I.Ye. Slovska (2021), who is convinced that the implementation of the principles of gender equality, as well as the implementation of "positive actions" aimed at eliminating the imbalance in the opportunities of women and men, directly depends on the activity of rights holders. Indeed, existing gender stereotypes and gender attitudes began to gradually transform under the influence of feminitives: lady major, lady press officer, policewoman, etc. High motivation will help to successfully overcome the existence of "natural" gender roles, without which it is too difficult to overcome gender inequality.

N.L. Polishko (2021) carried out a comprehensive scientific study of the legal regulation of the work of female police officers serving in the National Police of Ukraine. Under the legal protection of female police officers, Polishko understands a system of legal norms aimed at preventing and eliminating violations of the rights of a policewoman in the performance of her official duties, as well as the activities of state authorities and officials to ensure their implementation. The scientist classified guarantees of compliance with the labour rights of women serving in the National Police of Ukraine as follows:

1) general guarantees (apply to all police officers and allow them to legally exercise the right to labour);

2) special guarantees (security and protection of the labour rights of policewomen):

prohibition of engagement of women who have children under the age of three to work at night; sending women who have children from three to fourteen years of age on a business trip without consent; refusal of employment due to the presence of children under the age of three (for single mothers, a child under the age of fourteen or a child with a disability); imposing on the employer the obligation to provide women with the possibility of combining work and family responsibilities; lower requirements for physical training; the right to protection against unjustified refusal to join the National Police or illegal dismissal.

In her opinion, the social protection of female police officers should ensure compliance with the fundamental social rights of policewomen, creating appropriate conditions for their official activities.

Professional career of a woman in the law enforcement sphere

A small number of scientific papers are available regarding a woman's career in law enforcement. O.M. Chuyko and N.V. Kuravska (2019) believe that gender aspects of career should be investigated, focusing on the terms "career", "professional activity", "employment", and career should be considered as "dynamics of the entire working life of a person", "professional development", "component of self-fulfilment". The levels of factors that affect the career of a person, in their opinion, are micro-level (factors directly related to the personality), meso-level (related to the interaction of the individual with the organizational environment), macro-level (reflecting more institutional influences).

H.S. Buha (2017) notes that the performance of traditional family duties and job responsibilities in the workplace, the lack of "family time" adversely affects the family and the service of a woman as a result of her "double employment".

N.A. Bilevych (2021) investigated gender features of self-fulfilment in the professional activities of women employees of the National Police of Ukraine. She identified the factors that affect the foreign and internal professional success of plicewomen of the National Police of Ukraine. The researcher stated that optimization of professional interaction between representatives of different gender groups is facilitated by their joint activities at the level of small groups.

Researchers spoke in favour of the introduction of professional and psychological training into the system of professional and psychological training of police officers, the introduction into the organizational culture of a fair attitude of management and all employees towards both women and men (Smirnova, 2015; Shevchenko *et al*., 2018; Bilevych, 2021); psychological support of policewomen at various stages of their professional activity, including through the implementation of a program to increase the motivation to achieve success in the professional sphere and the desire for self-development (Buha, 2017); formation of gender competence of law enforcement officers in the system of professional

training and professional development of police officers (Formation of gender competence…, 2022).

Large-scale research of gender issues in law enforcement agencies of Ukraine

With the creation of the National Police, large-scale gender studies in law enforcement agencies also began to be conducted. These studies were initiated by the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine and supported by the Office of the Deputy Prime Minister of Ukraine for Euro-Atlantic Integration. Expert and technical support for the study was provided by the UN Women structure, and financial support was provided by the Government of the Kingdom of Sweden. Thus, from May to August 2017 and with the involvement of security and defence sector agencies, the "Gender Impact Assessment on the Security and Defence Sector of Ukraine" (2017) was conducted.

The study was conducted with the involvement of five agencies of the security and defence sector (the Ministry of Defence of Ukraine and the General Staff, the MIAU (National Police, National Guard of Ukraine, State Border Service of Ukraine). The results of the study are reflected in the report, which contains an explanatory note, background information, evaluation review, methodology, results (six sections), conclusions, recommendations, appendix. The section "Institutional culture" describes gender issues and relations between male and female employees (existence of gender stereotypes; very low awareness of gender issues and sexual harassment); issues of leadership and public speaking (lack of conceptual understanding of gender equality by managers; increasing their personal responsibility) (Gender Impact Assessment…, 2017). The personnel section describes the specifics of recruitment and selection (a slight increase in the number of women working in the security and defence sector), staff retention, appointment, promotion, and remuneration, mentoring and support. The prepared practical recommendations are aimed at solving the identified problems and strengthening the integration of the gender concept in the security and defence sector (Over 66,000 women…, 2022).

In 2017, a pilot research project on the fundamental issues of the theory and practice of integrating gender approaches into the educational process of higher education institutions of the security and defence sector of Ukraine began, which ended with the creation of Methodological Recommendations in the summer of 2020 (Methodical Recommendations…, 2021). Almost a third of all higher education institutions of the security and defence sector of Ukraine joined the project on the unification of approaches to teaching gender topics, and the methodological recommendations developed based on the conducted study are recommended by the academic councils of higher education institutions of the security and defence sector of Ukraine for use in the educational process (Volobuyeva *et al*., 2021).

Currently, an information and training manual has been published for security sector specialists on gender aspects of conflicts (Women. Peace. Security…, 2017). The manual consists of six chapters, appendices, and a dictionary of the most commonly used terms that directly relate to the topic of gender equality, the formation of non-discriminatory behaviour skills, and countering gender-based violence.

In 2018, the Ukrainian Centre for Social Reforms published the results of research on the modern understanding of masculinity, which was commissioned by UNFPA and the United Nations Population Fund, with the support from the Department for International Development of the Government of Great Britain and Northern Ireland (UK DFID) (Ministry of Social Policy…, 2018; Modern understanding of masculinity…, 2018). The methodological framework of the survey was based on IMAGES (International Men and Gender Equality Survey) approaches adapted to the local socio-cultural context. The purpose of the study was to analyse the process of socialization of modern men, examining the features of their behavioural models, attitudes and cultural practices associated with the influence of gender norms and stereotypes.

In 2019, within the framework of the UN Women Project "Gender Equality at the Centre of Reforms, Peace, and Security", which is carried out with the financial support of Sweden, the UN Women structure in Ukraine prepared the collection "Gender Issues in the Security Sector", which was translated and published by the OSCE Bureau for Democratic Institutions and Human Rights (OSCE/ODIHR) (Deni, 2019).

On the initiative of the MIAU, in the period from February 2019 to December 2020, the study "Understanding masculinity and gender equality in the security sector of Ukraine" (IMAGES) was conducted (Understanding masculinity…, 2021). This was the first national study in the history of the Ukrainian security sector. The survey covered 1,595 employees of the National Police, the National Guard of Ukraine and the State Border Guard Service of Ukraine in an equal ratio between employees (15% of the total number of respondents were women) from six administrative regions of Ukraine (west, centre, east, south countries). The sample consisted of representatives of these services, including those who, at the time of the survey, were on duty in the Joint Forces Operation area, those who had returned from there, and those who had no such service experience. Expert and technical support in conducting the research was provided by the structures of UN Women with the financial support of the governments of Sweden and Norway and in partnership with the National Academy of Internal Affairs, the non-governmental organization "Promundo", the Kyiv International Institute of Sociology. The results of the study of issues of masculinity and gender issues in the Ukrainian security sector were answers from men

and women to questions about gender equality in the family, at work and in society.

That is, the conducted research pointed to the need to implement effective actions for the organization of personnel work and conduct preventive measures of an educational, psychological, and educational nature, aimed at the formation of employees' conscious attitude towards their work, their observance of gender equality, mutual respect and tolerance. It also identified the need to create a roadmap for the implementation of gender policy in the divisions of the MIAU and develop recommendations for further promotion of gender equality as a priority area in the security sector. The real implementation of the research results in the practical activities of police units was the development and implementation of training classes aimed at forming the gender competence of employees of the units of the MIAU (Formation of gender competence..., 2022; Perunova *et al*., 2022).

Based on the analysis, the following stages of scientific research on gender equality in law enforcement agencies of Ukraine can be distinguished:

The first stage (1991 – October 2004) began with the declaration of independence of Ukraine. At this time, the Ukrainian police was created, the Law of Ukraine "On the Police" and the regulations on service in internal affairs bodies were adopted. This stage is characterized by a permanent scientific interest in gender issues in the law enforcement agencies of Ukraine of scientists of various fields of knowledge;

The second stage (October 2004 – November 2015) began with the introduction of the post of advisor to the Minister of Internal Affairs of Ukraine on human rights and gender issues. It is characterized by the emergence of comprehensive sociological and psychological studies on gender equality in the context of law enforcement activities, but these studies are not systematic in nature;

The third stage (November 2015 – present) began with the reform of the Ukrainian police and the creation of the National Police of Ukraine. It is characterized by gender studies within the framework of scientific national studies, which are systematic in nature and have the status of national programs and projects with subsequent integration into the training system of future specialists.

Thus, based on the analysis of scientific research on gender equality in law enforcement agencies, problematic issues that arise in the work of a female law enforcement officer can be identified as follows:

1) problematic issues affecting a woman's "self-concept" (Gender in psychological..., 2015): insignificant representation of women in law enforcement agencies; some women in leadership positions in law enforcement; work in double load mode; management's mostly negative attitude towards women of reproductive age; perception of women's professional achievements not as their own, but as undeserved advancement up the career ladder; constant overcoming of stereotypes by a woman in her professional activity; the problem of a woman's combination of family and professional spheres of life; the intensity of law enforcement activities, which affects other areas of a woman's life.

2) problematic issues that exist in the professional environment of law enforcement officers (Gender in psychological..., 2015; Martsenyuk, 2021): "vertical" and "horizontal" official relations; rivalry between women and men in the traditionally male-dominated field of police activity; identity crisis as a possible consequence of a woman's adaptation to the "male" management system.

3) problematic issues of professional activity of a female law enforcement officer (Prykhodko, 2018): difficulties in completing power and speed physical tests by women due to the specifics of their anatomy; problems of using self-defence techniques in real situations of countering offenders; unsuitable police equipment for its use by female police officers; problems in promotion due to the bias of male managers; the spread of sexual harassment.

Conclusions

The analysis of scientific research on gender equality in law enforcement agencies of independent Ukraine from 1991 to the present allowed establishing that the subject of gender equality in law enforcement agencies of Ukraine is in the circle of interest of scientists of various areas of knowledge (law, psychology, sociology, etc.).

Features of the development of gender issues in law enforcement agencies of Ukraine, specifically in the National Police of Ukraine, are characterized by three stages of scientific research of gender-based official relations: 1991 – October 2004; October 2004 – November 2015; November 2015 – present.

Ensuring gender equality in law enforcement agencies is considered by scientists at the levels of legal support (adopting laws and departmental regulations, ensuring effective mechanisms for their implementation); scientific and methodological support (conducting scientific research and implementation of their results); personnel support (recruitment to the police, moving away from gender asymmetry in the personnel composition towards gender balance in management positions, implementation of a gender-balanced approach); informational and organizational support (informing and legal education of police officers on gender issues; constant monitoring of the state of implementation of gender equality in units); socio-psychological support (psychological support for the career growth of men and women during the entire period of their service).

Unresolved problems that arise in the work of a female law enforcement officer and require further scientific research and integration into the practical

activities of police officers are three groups of problems (problems that affect the "self-concept" of a woman; problems that exist in the professional environment of law enforcement officers; problematic issues of professional activity of a woman). Based on the conducted theoretical analysis, it was found that the prospect of further scientific research is to investigate the features of gender-based interpersonal relations of police officers of the National Police of Ukraine.

Conflict of Interest

None.

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Історичні витоки та сучасний стан досліджень гендерної рівності в правоохоронних органах України

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Анотація
Реформування сектору безпеки спрямоване на його перетворення з метою забезпечення оптимальної підзвітності, підвищення ефективності, гуманізму, верховенства права, утвердження гендерної рівності в структурних підрозділах Міністерства внутрішніх справ України. Одним зі структурних підрозділів МВС України є Національна поліція, де гендерна паритетність слугує запорукою забезпечення проведення реформи й відповідності загальносвітовим тенденціям розвитку держави. Метою статті було проведення теоретичного аналізу наукових досліджень стосовно проблематики гендерної рівності в правоохоронних органах незалежної України з 1991 року донині. Методологічною основою дослідження стали засадничі принципи рівних прав і можливостей чоловіків та жінок у суспільстві. У дослідженні використано такі методи наукового дослідження: теоретичні (сходження від абстрактного до конкретного, перехід від конкретного до абстрактного), емпіричні та комплексні (абстрагування, аналіз і синтез, індукція та дедукція), що сприяли досягненню мети дослідження. Виокремлено й обґрунтовано етапи наукових досліджень гендерної рівності в правоохоронних органах України: перший етап (1991 рік – жовтень 2004 року); другий етап (жовтень 2004 року – листопад 2015 року); третій етап (листопад 2015 року – донині). Визначено, що наукові дослідження з проблематики гендерної рівності в правоохоронних органах незалежної України стосувалися правового регулювання праці жінок-правоохоронниць і їх соціально-правового захисту, гендерно забарвлених стилів поведінки працівників (працівниць) правоохоронних органів, їхніх психофізіологічних відмінностей і гендерної рівноправності, психологічних умов забезпечення гендерної рівності в діяльності правоохоронних органів, особливостей розвитку гендерних відносин у міжособистісному спілкуванні правоохоронців. Виокремлено та детально описано три групи проблемних питань, що виникають у роботі жінки-правоохоронниці, яка служить у Національній поліції України. Практична цінність проведеного дослідження полягає в ґрунтовному аналізі проведених наукових досліджень стосовно проблематики гендерної рівності в правоохоронних органах незалежної України та визначенні невирішених питань

Ключові слова:
гендерна рівність; правоохоронні органи; Національна поліція України; чоловіки-поліцейські; жінки-поліцейські

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Political neutrality as an indicator of professional prosecution

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Abstract
The relevance of the topic is determined by the importance of the principle of political neutrality as a preventive factor in the professional activity of the prosecutor, which calls for ensuring him from the external influence of any political force and the appearance of personal illegal interests in social cataclysms). The purpose of the article – to consider the professional activity of the prosecutor through the understanding of its principles as indicative characteristics of professional skills and professionalism. To confirm this, the author chose functionalism as the main methodological approach, which gave him reasons to claim that the functions of activity determine professional skills (the profession of a prosecutor), and the principles define professionalism (level of mastery of this profession). As auxiliary methods were used: formal-logical (for an argumentative presentation of the research material), formal-dogmatic (for the analysis of current regulatory documents) and comparative-legal (for comparison of the analyzed material). The main results of the study are shown the principle of political neutrality as a requirement in the field of professional activity of civil servants not only in Ukraine, but also in the European Union, the integration with which is defined as the main vector of further development of our state. A substantive distinction is made between political neutrality and synonymously similar concepts of political impartiality and independence, apoliticality and non-partisanship. At the same time, political neutrality is shown as one of the most important criteria in the formation of requirements for professional selection, professional training, professional development and professional activities of prosecutors. The practical value of the study is a warning to prosecutors against political ignorance, which can arise from a misunderstanding of political neutrality. In order to avoid or overcome this negative aspect, a number of factors are proposed for the prosecutor to achieve professional skills, which is described through a peculiar formula: the prosecutor's professional skills can be considered the sum of political, media and informational and environmental literacy, divided by political neutrality

Keywords:
policy, neutrality, political ignorance, political literacy, prosecutor, professional skills, professionalism

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Introduction

To some extent, the principle of political neutrality can be considered a preventive measure that protects the prosecutor during their entire professional activity; on the one hand, from unwanted (even legislatively prohibited) influence of politicians, and on the other hand, from their alleged personal desire to satisfy their wishes and illegal interests due to subjective attitude towards certain political forces. Such a risk is possible in modern Ukrainian society, which, in the conditions of war, increasingly acquires signs of political instability and social crisis. This necessitates the investigation of this issue with an emphasis on political neutrality as an indicator of the prosecutor's professionalism.

The principle of political neutrality (impartiality, independence, etc.) has already been the subject of research by Ukrainian scientists. While most of them clearly support its peremptory compliance by all civil servants, O. Petrunovska (2019) practically denies the possibility of its clear compliance. S. Karpiuk (2020) urges not to identify the principle of political neutrality with non-partisanship, while emphasizing the mandatory apolitical nature of professional civil service. N. Panova (2017) considers their political impartiality to be a guarantee of high-quality and consistently effective work of civil servants. In this context, T. Kahanovska (2017) interpreted the essence of public service in the context of militarized service as its variety. D. Mandychev (2021) considers independence (or impartiality) as one of the six criteria for evaluating the performance of judges (or candidates submitted for the position of judge) for their professional ethics or integrity, respectively. In this regard, it was interesting to adapt the works of communicativists into this study: Yu. Romanenko (2019) analysed the informational influence on the formation of an individual as an independent social subject, as part of a social community, in the context of all humanity; G. Sandvik and J. Rysdal (2021) traced the relationship of human manipulation with the field of sociology and social psychology; O. Demyanchuk (2019) proposed introducing political education without advertising a particular political force, expanding political awareness, avoiding selective engagement; V. Moroz (2022) advocated media literacy as one of the mandatory competencies of applicants for general education; S. Scheibe and F. Rogow (2017) believe that media literacy refers to the ability to "understand reality"; Ye. Mahda (2017) even developed an author's course on media literacy.

The purpose of this study was to consider the professional activity of the prosecutor through understanding its principles as indicative characteristics of professionality and professionalism based on the developed research.

Differentiation of the term "political neutrality" from related concepts

The legislator applies the term "political neutrality" synonymously to the term "political impartiality" or in the context of the much broader term "independence". Some scientists add one more thing to these terms – "non-partisanship". Analysing and comparing their content load, they note that "the most strict and rigid, undoubtedly, is the term "non-partisanship", which puts forward such an unambiguous requirement as "not being a member of a political party or political movement". It is this requirement that is put forward for employees of the specialized and militarized civil service. The terms "political neutrality" and "political impartiality" are somewhat milder, since they do not prohibit membership in political parties and political movements but put forward requirements for refraining from demonstrating political views, political preferences, and special treatment of political parties in the performance of their official duties" (Svirin, 2014).

There is no clear approach to understanding which civil service can be considered militarized yet. The explanation of T. Kahanovska (2017) appears the most scientifically sound, she believes that "the military service is a state service of a special nature, which consists in the professional activity of special subjects suitable for it in terms of health, age, and moral qualities – employees, connected with the implementation of important constitutionally significant defence, security, and protection tasks and functions of the state with the possibility of coercion".

Her colleague N. Panova (2017) believes that "for a specialized and militarized civil service, the principle of non-partisanship has long been known and has a legislative definition: officials of the Customs Service of Ukraine may not be members of political parties (Customs Code of Ukraine); police officers may not be members of political parties, movements, and other public associations that have a political purpose (Law of Ukraine "On the National Police"[1]); military personnel may not be members of any political parties or organizations or movements (Law of Ukraine "On Military Duty and Military Service"); members of the rank and file of the special communications service for the period of service or work in the special communications service shall suspend membership in political parties (Law of Ukraine "On the State Service of Special Communications and Information Protection of Ukraine"); ordinary and commanding officers and employees of the State Penitentiary Service of Ukraine shall not be members of political parties (Law of Ukraine "On the State Criminal Executive Service of Ukraine").

None of the researchers indicates whether the prosecutor's office belongs to the militarized service. Therefore, non-partisanship is a requirement only for

[1]Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/580-19#Text.

employees of a specialized anti-corruption prosecutor's office. However, the Law of Ukraine "On the Prosecutor's Office"[1], to avoid such conflicts in the context of agreeing on political neutrality and non-partisanship, contains a clear instruction that "a prosecutor cannot belong to a political party, take part in political actions, rallies, strikes" (Item 3 of Article 18. Incompatibility requirements).

Thus, as for the professionalism (professional activity) of the prosecutor, any political activity is excluded. This refers to the principle of independence from the illegal influence of politicians on the decision-making of prosecutors when performing their official tasks, the categorical prohibition for prosecutors to become members of political parties and participants in political events of any type, the political non-involvement of the prosecutor's office as a state institution, etc. This aspect was emphasized by other researchers of various professional environments of the civil service, considering the fact that it is not necessary to be on the list of members of a political force to support its political program and related issues during one's professional activity, a personal attachment to political ideas is sufficient (Vasylkivska, 2016; Kornuta, 2016; Nalyvaiko & Orieshkova, 2016). All of them agree that the observance of the principle of political non-involvement (impartiality, neutrality) is currently the need of the hour, although the implementation of this principle in the field of functioning of civil servants, namely prosecutors, is actually quite problematic.

In contrast to the synonymy of the terms "political neutrality" and "impartiality", some researchers introduce the concept of departyzation as a synonym of non-partisanship into the research toolkit. Thus, researching the areas and features of the legislative normalization of depoliticization of the civil service in Ukraine, O. Moshak and M. Svirin (2015) single out these principles of departyzation (non-partisanship), while political neutrality and impartiality they supplement with the concept of loyalty, which received legal consolidation in Ukrainian legislation in different years.

In other words, non-partisanship (departyzation) is not synonymous with political neutrality or impartiality, much less their guarantee. This requirement of the legislators is rather one of the auxiliary methods that to a certain extent "eliminates" additional risks regarding the probable political bias of the prosecutor. Therefore, the main emphasis should be placed on distinguishing between the terms "political neutrality" and "political impartiality".

One of the variants of such a distinction is proposed by O. Kohut (2016), that considering the interpretation of the principle of political impartiality in Article 4 of the Law of Ukraine "On Civil Service"[2] (as "preventing the influence of political views on the actions and decisions of a civil servant, as well as keeping from demonstrating one's attitude towards political parties, demonstrating one's own political views while performing official duties", in her opinion, "it would be more appropriate to use the name "principle of political neutrality" here, while in the section on the legal status of a civil servant to prescribe (as it is factually done) the requirement of political impartiality, by determining the appropriate limitations of the political rights of civil servants".

According to O. Petrunovska (2019), the principles of political impartiality "are conditioned by such constitutional rights as freedom of conscience and freedom of association into political parties and public organizations. And since Ukraine is a legal and democratic state, based on another principle – the rule of law, – it is logical to consolidate this principle. The only question is whether it will be possible to achieve the implementation of this principle in practice." While arguing with her fellow scientists, Petrunovska practically denies the possibility of clearly observing it. At the same time, this position reflects the opinion regarding civil servants in general, but some categories of them (namely prosecutors) are already legally warned against taking part in political parties and any demonstration of their commitment to them.

Excessive politicization, which is inherent in modern Ukrainian society, is considered a substantial obstacle to democratic reforms and one of the key issues of further development and effective operation of civil service bodies. As S. Fedchyshyn (2015) notes, civil servants are mostly viewed as a considerable administrative resource that allows them to retain power and guarantees "desired results" during the upcoming elections. Some explain this by the shortcomings of the legislation, and most researchers believe that this is a result and a consequence of command and administrative management. Oligarchic clans also try to see prosecutors as potentially useful administrative personnel, which may be needed at the right time. To avoid this, a clear legislative regulation of the actions and activities of prosecutors is required, as well as their own conscientious politically neutral orientation.

In general, while supporting the position that "the principle of political neutrality is closely related to the principle of impartiality", another researcher S. Karpiuk (2020) still emphasizes "...not equating the principles of political neutrality with non-partisanship". In Karpiuk's opinion, "professional civil service should be apolitical (and not non-partisan – Auth.), since its function is to render services to the population on a professional independent basis, regardless of the attitude towards the political elite in power." It is the term "apolitical" in this context that is the broadest and most generalized, from which the terms "political neutrality" and

[1]Law of Ukraine No.1697-VII "On the Prosecutor's Office". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18#Text.
[2]Law of Ukraine No. 889-VIII "On Civil Service". (2016, December). Retrieved from https://zakon.rada.gov.ua/laws/show/889-19#Text.

"political impartiality" originate. Here the prefix a- (as in all foreign language concepts) conveys the meaning of negation, which is an analogue of the Ukrainian particles meaning "against", "no", "without" (hence apolitical – literally means against politics, non-political). Whereas politically neutral means that the subject does not belong to any political force, does not join any political party, does not take part in any political cause, does not concern themselves with anything in the political sphere. A politically impartial person is someone who does not have a pre-determined political opinion against something or a pre-negative opinion regarding a particular policy. For the professionalism of the prosecutor, obviously, political neutrality is crucial, which contributes to impartiality, and therefore objectivity in decision-making.

Even broader than apolitical (which concretizes the denial of a particular sphere – politics) is the concept of independence (which does not indicate any of the spheres of human life and at the same time universalizes freedom and independence in any sphere).

Considering independence as the main criterion of integrity, namely in the legal analysis of indicators of judges' compliance with the position held, D Mandychev (2021) defines it (also calling it impartiality) as one of the six criteria listed among the Indicators for determining the non-compliance of judges (candidates for the position of judge) with the criteria of integrity and professional ethics (along with independence, honesty and incorruptibility, compliance with ethical standards, equality, diligence). Mandychev believes that such an understanding is rather doubtful since these criteria can be attributed to moral and ethical categories, and they tend to adapt (change) considering changes in social ethics and morals. Apparently, this is why the Public Integrity Council adopted certain indicators for each criterion that demonstrate non-compliance with it: e.g., non-compliance with the principle of political neutrality, the inability to prove the legality of received income or non-involvement of one's actions, etc.

Principles of professional activity of prosecutors as civil servants

The principles of activity of state institutions must necessarily factor in and reflect, first of all, the priorities of the state. Given Ukraine's current needs, such a priority is accession to NATO and the European Union. For this, Ukraine must perform several requirements, one of which is the harmonization of national legislation with EU legislation (*acquis communautaire* – translated from French means the acquisition of the commonwealth (Glossary of EU terms, 2003-2004). This Glossary is considered a rather dynamic development that is constantly being improved because it must consider the norms and provisions of many documents – founding treaties, secondary legislation and legal doctrines of the European Union, ECtHR decisions, international agreements, etc. – that is, a set of decisions within the Community (first level), within the scope of foreign cooperation on joint security (second level), and within the scope of cooperation between the police and justice authorities in criminal proceedings (third level). The third level concerns the activities of law enforcement and human rights institutions, which include the prosecutor's office; therefore, there are reasons to believe that the program of substantive and systemic reforms provided for by the Ukraine-EU Association Agreement also applies to this area (Agreement, 2014).

One of the main principles of state institutions is their independence. According to the conclusion of the Consultative Council of European Prosecutors[1], the independence of prosecutors has its own characteristics, namely:

– "Prosecutors must be independent in their status and behaviour: they must enjoy external *independence*, i.e., vis-à-vis undue or unlawful interference by other public or non-public authorities, e.g., political parties; they must enjoy *internal independence* and must be able to freely carry out their functions and decide, even if the modalities of action vary from one legal system to another, according to the relationship to the hierarchy" (Item 31);

– "the prosecutor should be the guarantor of respect for the law and the defender of society; he or she must not be an instrument in the interests of any social, political and religious group, any fraction in the government or the protector of its supporters…" (Item 32);

– "respect for external independence does not prevent the prosecution service from receiving general instructions on priorities of prosecutorial activities as they result from the law, the development of international co-operation or requirements relating to the organisation of the service" (Item 34);

– "Internal independence does not mean that every prosecutor is free to do anything; he or she may be subject to a hierarchy whose task is to ensure, in a clear way and without prejudice to independence, the proper functioning of the prosecution service as a whole and coherence, consistency and uniformity of action in the administration of justice and protection of human rights" (Item 39).

Ukrainian prosecutors are now guided by regulatory documents that, within the framework of the principle of independence, additionally approved the principle of political neutrality. Therefore, this principle is a normative indicator of the professionalism of prosecutors.

Thus, the Law of Ukraine "On the Prosecutor's Office"[2] states that "the activities of the prosecutor's office are based on the principles of: … 5) independence

[1]Conclusion of the Consultative Council of European Prosecutors No. 13 "On Independence, Accountability and Ethics of Prosecutors". (2018, November). Retrieved from: https://rm.coe.int/opinion-13-ccpe-2018-ukr/1680939322.
[2]Law of Ukraine No.1697-VII "On the Prosecutor's Office". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18#Text.

of prosecutors, which makes provision for the existence of guarantees against illegal political, material or other influence on the prosecutor regarding his or her decision-making in the performance of official duties; 6) political neutrality of the prosecutor's office; ...".

According to Article 8 of the Code of Professional Ethics and Conduct of Prosecutors, approved by the All-Ukrainian Conference of Prosecutors on April 27, 2017[1], "prosecutors are obliged to observe political neutrality in the performance of their official powers, to avoid demonstrating their own political beliefs or views in any way, not to use their official powers in the interests of political parties or their branches or individual politicians". Furthermore, Article 22 of this Code stipulates that "a prosecutor may not belong to a political party, take part in political actions, rallies, strikes, and involve subordinate employees in them, publicly demonstrate his or her political beliefs" (Code, 2017).

Prosecutors are closest in cooperation in the administration of justice to judges, regarding whom the principle of political neutrality is also prescribed legislatively (Part 4 of Article 54): a judge cannot belong to a political party or trade union, manifest favouritism towards them, or take part in political actions, rallies, strikes; while in office, a judge cannot be a candidate for elected positions in state authorities (except judicial) and local self-government bodies, as well as take part in election campaigning (which is regulated by the Law "On the Judiciary and the Status of Judges"[2]).

Other colleagues whose professional activities are limited to political neutrality are police officers. Thus, Article 10 of the Law of Ukraine "On the National Police"[3] specifies as follows:

"1. The Police ensure the protection of human rights and freedoms regardless of political beliefs and party affiliation.

2. The Police are independent in their activities from decisions, statements, or positions of political parties and public associations.

3. It is forbidden to use any objects that depict the symbols of political parties and carry out political activities in police bodies and units.

4. Police officers are prohibited from expressing their personal attitude towards the activities of political parties in the performance of their official powers, as well as from using their official powers for political purposes."

In addition, according to Item 4 of Article 61 of the same Law, a police officer cannot be a member of a political party.

The Law of Ukraine "On Civil Service" (as amended)[4] contains Art. 10 "Political impartiality", which states as follows:

"A civil servant must impartially carry out legal orders (commands), commissions of managers, regardless of their party affiliation and political beliefs.

A civil servant is not entitled to demonstrate his or her political views and to commit other actions or inaction that in any way may prove his or her special attitude towards political parties and adversely affect the image of the state body and trust in the authorities or pose a threat to the constitutional order, territorial integrity and national security, for the health and rights and freedoms of other people..."[5].

Article 40 of the Law of Ukraine "On Prevention of Corruption"[6] reads as follows: "1. The individuals specified in clause 1, sub-item "a" of Item 2 of the first part of Article 3 of this Law shall be obliged to observe political neutrality in the performance of their official powers, to avoid demonstrating their own political beliefs or views in any way, not to use official powers in interests of political parties or their branches or individual politicians".

Political neutrality as a criterion for verifying the integrity of prosecutors

In the professional activity for monitoring compliance with the principles of integrity of employees of the General Prosecutor's Office, prosecutors of various levels and investigators of the Prosecutor's Office, in the list of questions from the "Prosecutor's Integrity Questionnaire" (which is prescribed in the Procedure for Conducting a Secret Integrity Check of Prosecutors), the first questions that provide information on the declaration of property, income and expenses, material and financial obligations, compliance of the lifestyle with the received income, as well as information on whether corruption offences were committed or offences caused by them, etc. In general, this refers to issues that should demonstrate the compliance of prosecutors with the requirements and norms of anti-corruption legislation and possible corruption risks, but there is no mention in any way of the observance of the principle of political neutrality (see: Order of the Prosecutor General's Office of Ukraine[7]).

[1]The Code of Professional Ethics and Conduct of Prosecutors, approved by the All-Ukrainian Conference of Prosecutors. (2017, April). Retrieved from: https://zakon.rada.gov.ua/laws/show/n0001900-17#Text.
[2]Law of Ukraine No. 1402-VIII "On the Judiciary and the Status of Judges". (2016, June). Retrieved from https://zakon.rada.gov.ua/laws/show/1402-19#Text.
[3]Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/580-19#Text.
[4]Law of Ukraine No. 889-VIII "On Civil Service". (2016, December). Retrieved from https://zakon.rada.gov.ua/laws/show/889-19#Text.
[5]Ibidem, 2016.
[6]Law of Ukraine No. 1700-VII "On Prevention of Corruption". (2014, October). Retrieved from https://zakon.rada.gov.ua/laws/show/1700-18#Text.
[7]Order of the General Prosecutor's Office of Ukraine No. 205 "On the Approval of the Procedure for Conducting a Secret Check of the Integrity of Prosecutors in the Prosecutor's Office of Ukraine". (2016, June). Retrieved from https://zakon.rada.gov.ua/laws/show/z0875-16#n16.

This approach is obviously justified by the fact that at the stage of selecting and evaluating candidates for vacant positions in the prosecutor's office, the proportionally opposite methodology is applied. Thus, the appointment to the position is preceded by a comprehensive verification procedure, namely to choose the winner of the competitive selection based on the results of the interview, three categories of criteria are provided for, the first of which are the moral and business qualities, and the next – professional ones, as well as managerial and organizational abilities (Appendix to the Regulations on the Commission for the selection of the management staff of the prosecutor's office (Chapter 3)).

Although it must be recognized that the first indicators of compliance with the moral and business qualities of a candidate for a position in the prosecutor's office are honesty criteria - compliance of income with expenses and property, proper declaration (Item 3.1.1.1), as well as compliance with the candidate's way (level) of life and members of his or her family to the declared income (Item 3.1.1.2); and only after that, any other data that give rise to reasonable doubts about the candidate's non-compliance with the criterion of honesty, specifically, information about violations of the rules of professional ethics, the presence of signs of academic dishonesty, cases of unsettled conflicts of interest, etc. (Item 3.1.1.3).

Therewith, even among such honesty criteria as professional ethics (Item 3.1.2), the method of selection for a position in the prosecutor's office does not contain any indicator related to political neutrality, although it must be recognized that within this criterion, characteristics are given that somehow indicate this principle of professional activity of the prosecutor. This, this context suggests the discussion of the risks of the candidate's ineligibility for the specified position due to certain manifestations of political involvement, which is qualified as "cases of committing acts that discredit the candidate and may harm the authority of the prosecutor's office, during off-duty hours…; …such behaviour of the candidate or members of his or her family, which indicates support for aggressive actions of other states against Ukraine, cooperation with representatives of the so-called "DPR"/"LPR", the occupation administration or their accomplices (considering the current situation in Ukraine, apparently it is advisable to add: collaborationism, high treason, etc. – Auth.), among other things in public statements; a profound understanding of the principle of conflict of interests and actions that may give the impression of impartiality in the performance of official duties or damage the reputation of the prosecutor's office in the public mind…".

There are practically no such examples, but a peculiar illustration of the situation associated with such a discrepancy (albeit not during the selection for appointment to the prosecutor's office, but already in service in the prosecutor's office) can be considered the disciplinary penalty imposed on the head of the fifth Department of Procedural Management, Support of State Prosecution and Representation in Court of the Specialized Anti-Corruption Prosecutor's Office of the General Prosecutor's Office of Ukraine O.A. Yarova, which is listed on the official website of the relevant body conducting disciplinary proceedings[1]. The legal case that occurred is described as follows: "On June 15, 2018, at about 10:36 a.m., the head of the fifth department of the management of procedural management, maintenance of state prosecution and representation in court of the Specialized Anti-Corruption Prosecutor's Office of the Prosecutor General's Office of Ukraine O.A. Yarova in the "KyivExpoPlaza" exhibition centre, located at the address: 2-B Saliutna Str., Kyiv, took part in a political action – All-Ukrainian Forum "New Course of Ukraine", at which current People's Deputy of Ukraine and leader of the "Batkivshchyna" parliamentary party Yu.V. Tymoshenko factually presented her pre-election program as a candidate for the post of President of Ukraine. On O.A. Yarova had a badge (tag), which was of the same type for other participants of the forum, on which was the text "All-Ukrainian Forum "New Course of Ukraine", which testifies to the involvement of O.A. Yarova in the specified forum, which is essentially a political action. It follows from the above that O.A. Yarova took part in a political action. Furthermore, O.A. Yarova thus consciously and publicly demonstrated her political beliefs. Because she could not but understand that the congress of the political party "Batkivshchyna" will be widely covered by numerous media, as well as by the political party itself (its members). This act of O.A. Yarova is inconsistent with the principles of the prosecutor's office and the requirements of professional prosecutor's ethics. In addition, due to the wide public coverage of the fact of participation in a political event by the media, O.A. Yarova jeopardized the authority of the prosecutor's office as a whole - sowed doubts about its political neutrality and discredited herself as a prosecutor. Therewith, this political action took place on a working day, during working hours, and therefore O.A. Yarova violated the internal labour regulations".

Briefly, the proceedings can be reproduced as follows: "Prosecutor O.A. Yarova explained that she does not belong to any political organization and did not take part in such events. But as a person who is entitled to exercise their electoral and other rights and freedoms, she is interested in this topic without considering any political affiliation. She explained that she is studying for a postgraduate course in economics, and she is

[1]Decision of the General Prosecutor's Office of Ukraine No. 178дп-19 "On the Imposition of Disciplinary Sanctions on the Head of the Fifth Department of the Management of Procedural Management, Support of the State Prosecution and Representation in Court of the Specialized Anti-Corruption Prosecutor's Office of the General Prosecutor's Office of Ukraine O.A. Yarovu". (2019, June). Retrieved from https://kdkp.gov.ua/decision/2019/06/12/1835.

interested in reform and economics issues both as a person and as a prosecutor. She wanted to receive supporting materials and waited a few minutes for the book and the main diagrams. After she received these materials, she returned to the workplace." … "Checking the facts stated in the disciplinary complaints regarding the participation of O.A. Yarova in the congress of the political party "Batkivshchyna", it was established that according to the content of the Law of Ukraine "On Political Parties in Ukraine"[1], the congress of a political party is its statutory body. Thus, a party Congress cannot be considered a political action; it is a form of work of one of the governing bodies of a political party. Elected delegates who are party members take part in the party congress with the right to vote. Consequently, since she is not a member of the party and, accordingly, could not be elected a delegate to the Congress with the appropriate range of powers, her presence at it cannot be considered participation in the party congress. At the same time, given that the Congress is a public and, accordingly, open event, it may also be attended by other people who are not members of the party or its supporters. During the inspection, sufficient evidence was not found to consider the "New Course of Ukraine" forum as an event of the "Batkivshchyna" political party. Thus, during the audit, the facts set out in the disciplinary complaints about O.A. Yarova's commission of a disciplinary offence under Item 6 of Part 1 of Article 43 of the Law of Ukraine "On the Prosecutor's Office"[2], namely, a one-time gross violation of the rules of prosecutor's ethics, were not confirmed. The fact that the prosecutor O.A. Yarova committed a disciplinary offence, stipulated in Item 5 of Part 1 of Article 43 of the Law of Ukraine "On the Prosecutor's Office"[3] (committing actions that defame the title of the prosecutor and may cause doubt in his or her objectivity, impartiality and independence, in the honesty and incorruptibility of the prosecutor's office) was not confirmed, since the inspection did not reveal any violations by O.A. Yarova concerning any prohibitions and restrictions established by the Law of Ukraine "On the Prosecutor's Office"[4].

Therefore, based on the results of the review of the Qualification and Disciplinary Commission of Prosecutors in disciplinary proceedings No. 11/2/4-1950ds-353dp-18[5], decision No. 178dp-19 of June 12, 2019 was adopted "to bring the head of the fifth department of procedural management, maintenance of the state prosecution and representation in the court of the Specialized Anti-Corruption Prosecutor's Office of the General Prosecutor's Office of Ukraine Olha Yarova to disciplinary responsibility and to impose on her a disciplinary sanction in the form of a reprimand" according to Item 7, Part 1, Article 43 of the Law of Ukraine "On the Prosecutor's Office"[6], namely: violation of internal service rules.

Even though a decision was not made as a result of the disciplinary proceedings under Item 5 of Art. 43 "Grounds for bringing the prosecutor to disciplinary responsibility", especially under Part 3 of Article 18 "Requirements regarding incompatibility" of the Law of Ukraine "On the Prosecutor's Office"[7], however, the very fact of submitting and processing information regarding the potential risk of non-compliance with the principles of independence and political neutrality in the prosecutor's professional activity is indicative.

In such cases, the legislation is rather a warning, a precautionary factor that deters from certain actions or inaction (in our case, it does not allow - more precisely, it clearly prohibits, – and therefore, with a conscious perception, it protects the prosecutor from what can harm his or her likely career, both from the external influence of the social circles, and from the internal influence of unhealthy ambitions or the desire for easy profit). Therefore, some researchers consider another purpose of the principle of political neutrality to be the protection of civil servants (including prosecutors – Auth.) from unwanted influence and excessive control by various political forces, which will enable them to perform their functions well regardless of the governing political force (Panova, 2015). This principle protects prosecutors (civil servants in general) from the threat of losing their positions because of their political commitments. Such a threat can be especially likely when other parties come to power, and the entire pro-government vertical changes in all sectors and spheres of State life. This is because they are trying to combine the administrative functions of government employees with political functions. Therefore, the change in the supreme leadership of the state "generates such consequences as staff turnover, dependence on political changes and bias of civil servants, primarily the management staff, inconsistency, and unpredictability in making managerial decisions, as well as the workload of politicians with minor administrative issues. Each new political campaign in Ukraine is accompanied by massive updates of the official corps. About 40,000-50,000 of the total number of civil servants change every year, which entails adverse consequences: in such teams, loyalty to the leader is

[1]Law of Ukraine No. 23 "On Political Parties in Ukraine". (2001). Retrieved from https://zakon.rada.gov.ua/laws/show/2365-14#Text.
[2]Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18#Text.
[3]Ibidem, 2015.
[4]Ibidem, 2015.
[5]Qualification and Disciplinary Commission of Prosecutors in disciplinary proceedings No. 11/2/4-1950ds-353dp-18. (2019, June). Retrieved from https://zakononline.com.ua/court-decisions/show/87624736
[6]Law of Ukraine No. 1697-VII "On the Prosecutor's Office". (2015, July). Retrieved from https://zakon.rada.gov.ua/laws/show/1697-18#Text.
[7]Ibidem, 2015.

valued more than loyalty to the state; obedience to team rules is placed higher than obedience to the law" (Petrunovska, 2019). Given this, the principle of political neutrality can become one of the ways to solve this problem. Furthermore, political neutrality can become a guarantee of professionalism and professionality in the performance of relevant state functions. Therefore, compliance with and implementation of the principle of political neutrality is a crucial and even pragmatic task at all levels of professional activity of the prosecutor's office from the stage of competitive selection and throughout the entire service.

Differentiation of the term "political neutrality" from the terms "political indifference" and "political ignorance"

Here, one should pay attention to the opposite nuance. Sometimes political neutrality is confused with political indifference, which can later develop into political ignorance. A ban on political activity can quite naturally cause inertial disinterest in political processes taking place in the state, and then - become a habit of avoiding everything politically "stained". This approach to observing the principle of political neutrality is often accompanied by a conscious or unconscious avoidance of opportunities to obtain relevant information, which develops into ignorance and a frank lack of knowledge. Such a state of a person who holds the position of prosecutor can even cause cognitive dissonance (to perform their functions professionally, a prosecutor must have important information, e.g., know the political system of society and the normative principles of its functioning, distinguish between pro-government and opposition political parties, but never demonstrate their favour or antipathy towards any of them). But political ignorance should not become the norm of a prosecutor's professional activity. Knowledge and its adequate application, factoring in situations, circumstances, professional powers and restrictions, give greater chances to feel more confident and be convinced of the correctness of the decisions taken through objectivity, comprehensiveness in investigating and estimating the situation or legal case. This professional approach contributes to the development of a professional, which means that it opens more opportunities for professional growth and obtaining relevant benefits.

Political ignorance should be opposed by political awareness (literacy). In the modern world, it is quite common to raise the question of starting to study politics from a general education school and making political science one of the mandatory educational components in higher education. Disinterest in politics causes a lack of understanding of political processes, and therefore a lack of understanding of governance mechanisms and strategic development of humanity. Sociologists cite several reasons for this: firstly, it is an inherited command and administrative approach based on the principle of "we do not decide anything"; secondly, the lack of political education that can develop leadership skills, socio-political literacy and modernize the worldview; thirdly, the attitude towards politics as a swamp, and to oneself as a voice in the desert; fourthly, outright distrust of politicians and at the same time fear of taking responsibility for oneself, proposing changes here and now. Considering this, it is necessary to introduce political education without advertising a separate political force, to expand political awareness, avoiding selective involvement (Demyanchuk, 2019).

The study of the basics of national policy (as an educational discipline) should form in schoolchildren (as a potential conscious electorate of the state) an understanding of the processes of creation and mechanisms of the implementation of national policy in a real social environment, and therefore, provide them (as individual citizens and as part of public associations, communities, social institutions, and state structures) the opportunity to influence these processes (Basics of state policy…, n.d.). Such courses are now becoming common among young people who want to realize their healthy ambitions in solving national problems and need qualified advice at the same time. The most common example can be considered the national educational and scientific project Prometheus, one of which is the course "Fundamentals of National Policy", developed under the aegis of the American Embassy in Ukraine (more precisely, a separate department handling issues of education, culture, and media) and adapted by Professor of the Kyiv-Mohyla Academy O. Demyanchuk (2019).

Another criterion for the prosecutor's professionalism, apart from political awareness, can be considered media literacy, which demonstrates the so-called media (information and communication) culture. Such competence lies in the ability to use information and communication techniques (means and methods of receiving, storing, and transmitting information) for communication and self-expression. Researchers in this field believe that media literacy also refers to "the ability to consciously perceive and critically interpret information, to separate reality from its virtual simulation – to understand the reality constructed by media managers, to understand the power relations, myths, and types of control that they cultivate" (Scheibe & Rogow, 2017).

Such competence is vital for everyone who wants to possess knowledge, skills, and abilities that allow to analyse, critically evaluate and at the same time formulate their own informational messages, to be aware of the influence of the media and communication through the perception of complex processes of their activity. A prosecutor belongs to the type of specialists who not only need such competence, but for whom it is also absolutely necessary. After all, media literacy is also the ability not to be influenced and manipulated by the media, the ability to make balanced and correct decisions thanks to

knowledge and comparison of the content of national and foreign media, the use of analytical and critical thinking for quick and effective orientation in large information masses, the ability to recognize reliability and expertise of the received data or disinformation, the ability to identify manipulative and propagandistic media content and subsequently avoid or counter them.

Occasionally, it is very difficult to distinguish between decisions based on a critical analysis of the situation and decisions dictated by veiled information manipulation. Thus, for instance, a prosecutor who came to a working meeting with the subject of the case under consideration at the place where the meeting of a certain political party is taking place, even if they make a positive decision for this subject, considering the objective factors of the case, can still be accused of a certain attachment to that political force, since the information allegedly involuntarily heard could affect the their thought process. Another side of this situation is also possible: those who are interested in the opposite decision of the prosecutor will focus on the possible manipulations, and the prosecutor themselves, fearing accusations of political bias, would change their previous decision, not even noticing that it was then that their opinion was manipulated. In such cases, researchers in the field of sociology and social psychology believe that "if a person succumbs to the principles of manipulation, it is only their fault" (Sandvik & Rysdal, 2021). Therefore, in such situations, information and communication literacy (awareness) becomes a significant component of professionalism because, on the one hand, it does not allow others to influence the decision-making, and on the other hand, it makes it possible to independently distinguish neutral information from manipulative. Therefore, it is not at all surprising that (similar to political awareness) media literacy has begun to be offered as one of the mandatory competencies, and therefore it is recommended to introduce it for study in various academic subjects (Moroz, 2022). Even a well-known Ukrainian political scientist and author of research on hybrid (information) warfare techniques, Yevhen Mahda has developed an author's course on media literacy, adapting it to the main challenges of the modern world - disinformation and fake news (Magda, 2017). In the list of competencies that can be improved and acquired during the study of this course, critical and systemic thinking, the ability to logically justify a position and cooperate with other people (general competencies), as well as informational-communicational and emotional-ethical competencies, possession of technologies for supporting professional activity in conditions of reforms and social transformations (professional competences).

Apart from media literacy, information ecology can also be considered an essential factor in the prosecutor's professionalism - an area that factors in the results of the influence of information on the emergence and life of biological systems, which include people, human associations, and humanity as a whole, as well as on the physical and moral and mental state and social well-being of a person in information content (Romanenko, 2019). The prosecutor's office is not an exception among all types of activities of state bodies, where information technologies are intensively implemented, which potentially allows increasing the efficiency of their functioning, but at the same time opens them to new risks of information overload.

Information ecology as a factor of the prosecutor's professionalism provides for:

1) the ability to single out a subject (fact, action, event, idea, etc.) in the context of the situation (matter) under study, since a large amount of information scatters attention and does not contribute to its concentration; 2) the formation of so-called personal "memory cards" because the sources of information (media, social networks) require changes in the methods of processing, accumulation, and storage of acquired knowledge and the creation of a kind of systematized databases; 3) the stability of cognitive and intellectual activity, which with the development of information technologies is to some extent facilitated by the presence of the Internet as an information partner of a person (artificial intelligence) and at the same time forms a kind of information dependence on it; 4) creation of a personal "social network", consisting of a number of interconnected social spheres – personal space, family sphere, professional environment, etc. And here political neutrality actually becomes the indicator of the professionalism of the prosecutor, who filters information about the subjects of consideration and differentiates it into useful, acceptable or unacceptable, and based on this, systematizes and arranges their life activities into informational clusters.

Conclusions

Professionality has two shades of semantic meaning: on the one hand, this concept implies a connection with a certain profession (thus, in the context of this study, we discussed the professional environment of the prosecutor's office), and on the other hand, it means the work of a professional (namely, expertise, skill, and special training of the prosecutor). Professionality is reflected in the totality of certain knowledge, skills, abilities, and experience achieved by a person in a particular area of activity, and demonstrates the level of proficiency in these achievements. Therewith, each profession provides its unique qualification requirements for the person who receives it, i.e., this refers to a list of requirements and norms regarding the level of education and professional characteristics (already mentioned knowledge, skills, abilities, experience, etc.) necessary for the high-quality performance of the types of work provided for by the profession. Apart from the qualification professional requirements, there are also job requirements that actually distinguish a certain separate speciality (specialization) from a set of related professions (specialities). For

instance, prosecutors, judges, barristers, investigators, etc. are distinguished from lawyers.

In the context of the prosecutor's profession, two groups of requirements can be distinguished: the first are mandatory (these are functions, tasks), they are specialized because they reflect the main types of activities of the prosecutor's office; the second are fundamental (these are foundations, principles), they are special, i.e., they can be the same for all professional varieties within the scope of the speciality of a lawyer. Clearly, the first (functional) requirements are crucial in the professionality of the prosecutor. But the requirements of the second group (fundamental) allow discussing the professionalism of the prosecutor. In other words, the functions of activity determine professionality (profession), and the principles determine professionalism (level of proficiency in the profession). That is why the principles of organization and implementation of activities (namely, the prosecutor) can be considered its methodological basis. That is, in the professional activity of a prosecutor, functions indicate what should be done, and principles determine how (more precisely, under what conditions) it should be done. Without complying with the professional requirements of the second group, the prosecutor never implements the requirements of the first group qualitatively; after all, failure to comply with the principles of the prosecutor's office to a certain extent negates the performance of the prosecutor's individual professional functions. Such an understanding of the principles of professional activity of the prosecutor gives grounds to investigate them as indicative characteristics of his or her professionality and professionalism.

Political neutrality is one of the key criteria in forming requirements for professional selection, professional training, professional development, and professional activity of prosecutors. Therewith, it is crucial to distinguish between the semantics of political neutrality and independence, impartiality, non-engagement, integrity, apolitical, non-partisanship, and other related and derived categories; and also, striving to ensure the prosecutor's independence in decision-making, not to reduce him or her to political ignorance, which would significantly limit their ability to be objective and examine situations in a variety of ways. Therefore, political literacy has every chance to become one of the factors of professionality of prosecutors on a par with media literacy and information ecology. The professionality of the prosecutor as such can be considered a result that is figuratively reproduced according to the following formula: the sum of political, media, and information and environmental literacy divided by political neutrality. Awareness in the field of politics and understanding of the mechanisms of functioning of information flows and their influence, passed through the lens of the inadmissibility of manifesting political preferences and attachments, can provide a professional approach to making a prosecutor's decision (admittedly, considering their special professional competencies of a lawyer).

Conflict of Interest

None.

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Політична нейтральність як індикатор професійності прокурора

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Анотація
Актуальність теми зумовлена важливістю принципу політичної нейтральності як запобіжного чинника в професійній діяльності прокурора, що покликаний убезпечити його від зовнішнього впливу будь-якої політичної сили й особистих незаконних інтересів (особливо гостро цей аспект може виявлятися в політично нестабільних суспільствах, у разі зміни керівництва держави чи значних соціальних катаклізмів). Стаття має на меті розглянути професійну діяльність прокурора через розуміння принципу політичної нейтральності як індикаційної (показової) характеристики професіоналізму. Для підтвердження цього автор обрав функціоналізм як основний методологічний підхід, що дало підстави стверджувати, що функції діяльності визначають професійність (професію прокурора), а принципи – професіоналізм (рівень володіння цією професією). Як допоміжні методи використано формально-логічний (для аргументованого викладу дослідницького матеріалу), формально-догматичний (для аналізу чинних нормативних документів) і порівняльно-правовий (для зіставлення аналізованого матеріалу). Основні результати дослідження демонструють принцип політичної нейтральності як вимогу у сфері професійної діяльності державних службовців не лише в Україні, а й у Європейському Союзі, інтеграція з яким визначена основним вектором подальшого розвитку України. Здійснено змістове розмежування політичної нейтральності із синонімічно близькими поняттями політичної неупередженості та незалежності, аполітичності, позапартійності й департизації. Причому політичну нейтральність визнано одним з найважливіших критеріїв у формуванні вимог щодо професійного відбору, професійної підготовки, професійного становлення та професійної діяльності прокурорів. Практична цінність дослідження полягає в застереженні прокурорів від політичного невігластва, що може виникнути в разі неправильного розуміння політичної нейтральності. Для уникнення або подолання цього негативного аспекту запропоновано низку чинників досягнення прокурором професійності, що описано через своєрідну формулу: професійність прокурора можна вважати сумою політичної, медійної та інформаційно-екологічної грамотності, поділеною на політичну нейтральність

Ключові слова:
політично нестабільне суспільство; політична грамотність; прокурор; професійність; професіоналізм

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